DEPARTMENT OF TAXATION
2023 Fiscal Impact Statement

1. **Patron** Carrie E. Coyner
2. **Bill Number** HB 1369
   House of Origin:
   _____ **Introduced**
   _____ **Substitute**
   _____ **Engrossed**

   Second House:
   _____ **In Committee**
   _____ **Substitute**
   __X__ **Enrolled**
3. **Committee** Passed the House and Senate
4. **Title** Installment agreements for payment.

5. **Summary/Purpose:**

This bill would require the Department of Taxation (the "Department") to offer installment agreements to individual income taxpayers in which the taxpayer may satisfy his or her entire tax liability over a term of up to five years. This bill would not affect installment agreements for any other tax. The bill would also repeal the Department's authority to modify or terminate an installment agreement if the financial condition of the taxpayer has significantly changed or it fails to provide a financial condition update upon request. Virginia law does not currently set forth maximum or minimum terms with respect to installment agreements.

The bill would also establish a working group for the Department to study current federal and state policies concerning installment agreements and make recommendations regarding how the Department policies could better align with installment agreement policies adopted by the Internal Revenue Service.

If enacted during the 2023 Regular Session of the General Assembly, this bill would become effective July 1, 2023.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact is:** Unknown. (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

The Department considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

This bill would have an unknown impact on revenues. While extending the maximum term of an individual or corporate income tax installment agreement to five years could reduce annual collections, such reduction could be fully or partially offset by revenues collected from taxpayers currently prevented from entering into installment agreement because they need a longer installment term than currently allowed under the Department's policies.

The Department would not be allowed to modify or terminate an installment agreement upon learning of a change in financial condition. However, the Department would retain the ability to modify or terminate an installment agreement after an installment payment is missed, the taxpayer becomes delinquent in other tax liabilities, or the taxpayer fails to file any required tax or informational return during the prior in which such agreement is in effect.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Installment Agreements

The Department routinely enters into installment agreements with taxpayers when they are unable to immediately pay the full amount owed, but may do so over a period of time. The Department has the authority to modify or terminate any installment agreement for several reasons, such as a change in financial condition, failure to update financial condition upon request, failure to pay any installment when due, failure to pay other tax liabilities when due, or the taxpayer fails to file any required tax or informational return during the period in which such agreement is in effect.

Virginia law does not currently set forth maximum or minimum terms with respect to installment agreements. However, the Department has developed internal procedures to ensure fair and consistent review of requests for installment agreements. Such rules include consideration of the amount owed, the taxpayer's financial situation and other hardship considerations, and whether the taxpayer routinely enters into or defaults on such installment agreements.

The Department historically has maintained a general policy of limiting the maximum term of installment agreements to two years for individuals, but no limit was applied to corporations. During the COVID-19 pandemic, the Department extended this general policy by allowing installment agreements of up to four years in certain circumstances where a taxpayer has a significant amount of outstanding tax liability and has not previously required an installment agreement or has not previously defaulted due to non-payment of taxes owed. The Department recently made additional changes to the procedural documents that are made available for practitioners, including clarifying the language, removing the financial statement requirements for taxpayers who did not habitually fail to pay, and extending the largest balance range for taxpayers who did not habitually fail to pay to allow repayment over a period of up to five years.

Proposed Legislation

This bill would require the Department to offer installment agreements to individual income taxpayers in which the taxpayer may satisfy his or her entire tax liability over a term of up to five years. This bill would not affect the Department's authority to enter into installment agreements for any other tax.

The bill also repeals the Department's authority to modify or terminate the installment agreement if the financial condition of the taxpayer has significantly changed or fails to provide a financial condition update upon request. However, the Department would retain the authority to modify or terminate an installment agreement if the taxpayer fails to pay any installment when due or file any required tax or informational return during the period in which such agreement is in effect.

Pursuant to recent legislation, the statute of limitations for collecting delinquent taxes was reduced to a period of seven years. This statute of limitations is tolled in cases where the taxpayer enters into an installment agreement. As a result, taxpayers who enter into installment agreements under this bill could be subject to collection action for an extended period of time.

The bill would also establish a working group for the Department to study current federal and state policies concerning installment agreements and make recommendations regarding how the Department policies could better align with installment agreement policies adopted by the Internal Revenue Service. Such working group would include two members selected by the Taxation Section of the Virginia Bar Association, two members selected by the Virginia Society of Certified Public Accountants, and two members selected by the Virginia Society of Enrolled Agents. The Division of Legislative Services would be required to assist the working group. The working group would be required to complete its meetings by October 1, 2023, and submit a report of its findings and recommendations to the Chairmen of the House Committee on Finance, House Committee on Appropriations, and the Senate Committee on Finance and Appropriations by November 15, 2023.

If enacted during the 2023 Regular Session of the General Assembly, this bill would become effective July 1, 2023.

cc: Secretary of Finance

Date: 2/16/2023 ADD
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