

DEPARTMENT OF TAXATION

2023 Fiscal Impact Statement

1. **Patron** Joseph P. McNamara

3. **Committee** Passed the House and Senate

4. **Title** Taxes; Period of limitations on collection

2. **Bill Number** HB 1625

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would suspend the statute of limitations on state tax collections actions while any administrative or judicial proceedings contesting the assessment are pending. This bill would also repeal a provision suspending the statute of limitations while the taxpayer is outside of the Commonwealth.

Under current law, collection actions must cease after seven years from the date of assessment. The running of the seven year statute of limitations is suspended while the taxpayer is in bankruptcy, is located outside of Virginia for more than 6 months, or has entered into an installment agreement.

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

This is Department of Taxation legislation.

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

7. **Fiscal Impact Estimates are:** Unknown Gain. (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation (the "Department") considers implementation of this bill as routine and does not require additional funding.

Revenue Impact

This bill would preserve state revenues to the extent that valid and collectable assessments are collected that would otherwise be discharged as a result of the inability to enforce collection actions in cases where there is lengthy litigation beyond the seven-year statute

of limitations. The revenue impact from repeal of the suspension of the statute of limitations while a taxpayer is outside of Virginia for more than six months is expected to be minimal.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Until 1990, there was no limitation on the Department's ability to collect assessments. In 1990, legislation was passed (1990 *Acts of Assembly*, Chapter 659, Senate Bill 82) that imposed a period of limitations for the Department to make or institute collection action by levy, proceeding in court, or any other means available to the Tax Commissioner under the laws of the Commonwealth to twenty years from the date of the assessment. This period of limitations was reduced from twenty years to ten years from the date of assessment in 2010 (2010 *Acts of Assembly*, Chapter 30, House Bill 17) and from ten years to seven years in 2012 (2012 *Acts of Assembly*, Chapter 840, House Bill 35). Since some form of collection action was usually initiated within the seven-year limitations period, most assessments remained collectible until satisfied.

In 2016, legislation was enacted (2016 *Acts of Assembly*, Chapter 634, House Bill 643) that required the Department to cease all collection actions seven years after an assessment was made, even if the collection action had been initiated before the expiration of the seven-year period. However, collections actions pursuant to execution of liens created by a judgment lien or a memorandum of lien under *Va. Code* § 58.1-1805 would not be affected. The seven-year period would be suspended during periods when (i) the taxpayer's assets are in control or custody of the U.S. Bankruptcy or any other federal or state court; (ii) the taxpayer is outside the Commonwealth for six months or more; or (iii) an installment payment agreement between the taxpayer and the Department is in effect. This legislation was effective for assessments made on and after July 1, 2016, so the expiration of the seven-year statute of limitations for such assessments will begin expiring on July 1, 2023.

Proposed Legislation

This bill would suspend the running of the statute of limitations on collections actions while any administrative or judicial proceedings contesting the assessment are pending. This bill would also repeal a provision suspending the statute of limitations while the taxpayer is outside of the Commonwealth.

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

cc : Secretary of Finance

Date: 2/22/2023 ADD
HB1625FER161