

DEPARTMENT OF TAXATION

2007 Fiscal Impact Statement

1. **Patron** Jeffrey M. Frederick

3. **Committee** House Finance

4. **Title** All State Taxes; Tax Bills

2. **Bill Number** HB 2442

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would require that all bills sent by TAX identify the specific tax or taxes, identify the actual return filed by the taxpayer that relates to the assessment of any tax, and include in a separate line item for the amounts of an penalties or interest being assessed.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

6a. **Expenditure Impact:**

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Fund</i> |
|---------------------------|-----------------------|--------------------|
| 2006-07 | \$61,920 | GF |
| 2007-08 | \$15,480 | GF |
| 2008-09 | \$0 | GF |
| 2009-10 | \$0 | GF |
| 2010-11 | \$0 | GF |
| 2011-12 | \$0 | GF |
| 2012-13 | \$0 | GF |

7. **Budget amendment necessary:** Yes.

Item: 269, Department of Taxation

8. **Fiscal implications:**

Administrative Impact

TAX would incur administrative costs of \$61,920 for FY 2007 and \$15,480 for FY 2008 for systems changes. Based on the extent of systems changes involved, the earliest that bills in the new format could be issued would be October 1, 2007.

Revenue Impact

There is no general fund revenue impact associated with this bill.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

Page 1, Line 32, After such bill.

Strike: Any

Insert: Effective October 1, 2007, any

11. Other comments:

Current Law

TAX issues assessments, bills, statements, and various types of correspondence in the assessment and collection of taxes. The term "assess" refers to the act of determining that a tax is due. Virginia Regulation 23 VAC 10-20-160 E explains the different forms as follows:

1. When referring to taxes administered by the Department, the terms "assess" and "assessment" mean the act of determining that a tax (or additional tax) is due and the amount of such tax. An assessment may be made by the Department or by the taxpayer (self-assessment).
2. When an assessment is made by the Department, a written notice of the assessment must be delivered to the taxpayer by an employee of the Department or mailed to the taxpayer at his last known address. The date that such notice is mailed or delivered is the date of the assessment for the purpose of any limitations on the time in which administrative and judicial remedies are available and for any other administrative purposes.
3. The written notice of an assessment made by the Department is made on a form clearly labeled "Notice of Assessment" which sets forth the date of the assessment, amount of assessment, the tax type, taxable period and taxpayer. Subsequent statements which merely report payments and additional accrued interest are not assessments or notices of another assessment. An assessment may be preceded by correspondence proposing adjustments to a filed return based on an audit or other information received by the Department. Such correspondence is not an assessment but is intended to provide taxpayers an opportunity to correct any errors before an assessment is made.

If the assessment is not paid after sending the initial notice of assessment, TAX issues follow-up bills. If more than one assessment is delinquent, TAX issues a consolidated bill listing all delinquent assessments owed by the taxpayer. The subsequent bills do not contain all of the information in the original notice of assessment. For example, while the notice of assessment separately states the amount of tax, penalty and interest due, subsequent bills list only the total balance of the assessment, then identify any payments or additional interest and penalty that accrued after the date of the original assessment.

The notice of assessment, because it gives notice that a legal act has occurred, triggers certain legal rights and responsibilities, such as a duty to pay the amount assessed or the

right to contest the assessment administratively or in court. Several court cases have held that documents that TAX intended to be bills bore sufficient resemblance to a notice of assessment that the taxpayer should be accorded the same rights as if the bills were in fact another assessment. As a result of these cases, TAX has designed its forms so that there will be no confusion as to which document is a notice of assessment and which are merely bills and statements attempting to collect an assessment.

Proposal

This bill would require that all bills to taxpayers for unpaid taxes contain all of the information that is currently set forth in the original notice of assessment, i.e., the specific tax or taxes, the actual return filed by the taxpayer that relates to the assessment of any tax, and a separate line item for the amounts of an penalties or interest being assessed. In addition to the programming work to enable the system to print the appropriate information on every bill and statement, TAX would have to ensure that the design of the bills and statements is sufficiently different from a notice of assessment to avoid any confusion that might affect the rights of taxpayers and TAX in court.

The notice of assessment, and subsequent bills, currently identify the type of tax and taxable period. Since only one return is normally made for each taxable period, this is sufficient to identify the type of return. In some cases, however, amended returns may be filed and an additional entry would be required to distinguish whether an assessment relates to the original or amended return. Also, the individual income tax system contains different types of returns for residents, part-year residents and nonresidents that would have to be identified under this bill.

cc : Secretary of Finance

Date: 1/23/2007 JOC
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