

DEPARTMENT OF TAXATION

2007 Fiscal Impact Statement

1. **Patron** Stephen C. Shannon

3. **Committee** House Finance

4. **Title** Income Tax; Abusive Tax Avoidance
Transactions

2. **Bill Number** HB 2920

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would allow TAX to assess income taxes within seven years after a return was filed, whether such return was filed on or after the date prescribed, if the return was based in whole or in part on an abusive tax avoidance transaction. If the return was false or fraudulent, an assessment would be allowed to be made at any time whether or not the falsity or fraud was related to the abusive tax avoidance transaction.

An "abusive tax avoidance transaction" would be defined as a transaction that does not have a lawful basis for reducing income taxes owed to the Commonwealth and that was entered into for the purpose of or has the effect of creating tax benefits with no other meaningful or legitimate economic purpose.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Not provided. (See Line 8.)

7. **Budget amendment necessary:** No.

8. **Fiscal implications:**

Administrative Costs

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as "routine," and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not "routine." Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

Revenue Impact

This bill would have a negligible positive revenue impact beginning in four to five years.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Income taxes may be assessed at any time if no return is filed, a false or fraudulent return is filed with intent to evade tax, the taxpayer fails to report a change or correction increasing his federal taxable income, or the taxpayer fails to report a change or correction decreasing the tax paid to another state for which a credit was claimed on his Virginia income tax return. In other cases, the Tax Commissioner has three years from the date a return is filed in which to assess a tax.

Proposal

This bill would allow TAX to assess income taxes within seven years after a return was filed, whether such return was filed on or after the date prescribed, if the return was based in whole or in part on an abusive tax avoidance transaction. A return of tax filed before the last day prescribed by law would be considered to be filed on the last day. If the return was false or fraudulent, an assessment would be allowed to be made at any time whether or not the falsity or fraud was related to the abusive tax avoidance transaction.

An "abusive tax avoidance transaction" would be defined as a transaction that does not have a lawful basis for reducing income taxes owed to the Commonwealth and that was entered into for the purpose of or has the effect of creating tax benefits with no other meaningful or legitimate economic purpose.

cc : Secretary of Finance

Date: 1/26/2007 AMS
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