

DEPARTMENT OF TAXATION 2009 Fiscal Impact Statement

1. **Patron** Walter A. Stosch

2. **Bill Number** SB 905

3. **Committee** Senate Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Power of Attorney; TAX to Provide
Representative with Copies of
Correspondence.

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would require TAX to provide a copy of any written correspondence, documentation, or other written materials that relate to a tax matter for which a taxpayer has filed a power of attorney to the person named as power of attorney. The copy would be required to be furnished to the person named as power of attorney at the same time the information is provided to the taxpayer and under the same delivery method used.

The effective date of this bill has not been specified.

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

6a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2008-09	\$0	0	GF
2009-10	\$549,040	0	GF
2010-11	\$77,500	1	GF
2011-12	\$75,800	1	GF
2012-13	\$76,800	1	GF
2013-14	\$77,800	1	GF
2014-15	\$78,800	1	GF

7. **Budget amendment necessary:** Yes. (See Line 8.)

270 and 273, Department of Taxation

8. **Fiscal implications:**

Administrative Costs

In order to implement this change, TAX would incur estimated administrative costs of \$549,040 for FY 2010, \$77,500 for FY 2011, \$75,800 for FY 2012, \$76,800 for FY 2013, \$77,800 for FY 2014, and \$78,800 for FY 2015.

The significant administrative costs in Fiscal Year 2010 include costs associated with TAX establishing a system to send out copies of correspondence to valid power of attorneys as

well as safeguarding information for which there is no power of attorney. To implement this change, TAX would create a new registration process for the power of attorney forms.

The registration process would allow for paper and online registration. Incoming power of attorney forms would be processed through a new workflow, which would solely process power of attorney forms. The information would then be entered into a new database that would store power of attorney information as well as assign each power of attorney a number.

TAX implemented a new Integrated Revenue Management System (IRMS) in August 2005. IRMS includes an imaging system, a data entry system, a remittance system, a customer relationship management system, a collections system, an audit system, an Internet suite of systems, and back-office systems that process the registrations of taxpayers and the processing of their returns and payments.

This existing system would have to be changed to integrate the new power of attorney database and to enable the systems to automatically generate a copy of correspondence if a valid power of attorney is on file. Consolidated bills would be routed to a different database, which would send the consolidated bill to the taxpayer and send a redacted bill to the power of attorney, which would include only the information that the power of attorney is authorized to receive.

The ongoing costs for Fiscal Years 2011 through 2015 would account for postage costs associated with an additional copy of each document being mailed and one new position to process power of attorney forms, as described above.

This administrative cost estimate assumes the acceptance of TAX's recommended technical amendment. If the technical amendment is not accepted, the administrative cost estimate would change, in that some costs would shift to FY 2010.

Revenue Impact

There is no General Fund revenue impact for this bill.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

In order to provide adequate time to make the changes required by this bill, the following technical amendment is suggested:

Page 1, Line 40, after expenses.

Insert: **2. The Department of Taxation shall implement the provisions of this act no later than July 1, 2010.**

11. Other comments:

Current Law

Under the current law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee must not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, income or business of any person, firm or corporation. There are several very specific exceptions to this rule. These exceptions traditionally involve the sharing of information with other state agencies in order to assist in the performance of required duties. For example, TAX may disclose such information as may be necessary to the Virginia Employment Commission to facilitate the collection of unemployment taxes and overpaid benefits.

A taxpayer may authorize a person, through a power of attorney form filed with TAX, to represent the taxpayer. TAX accepts the Virginia Power of Attorney Form (PAR 101), the IRS Power of Attorney Form (Form 2848), and any written authorization that includes the required information. Such required information consists of (i) taxpayer's name and address; (ii) taxpayer's social security number or other identification number; (iii) third party's name; (iv) tax type, taxable period, and return involved; (v) sufficient facts to enable TAX to determine the nature and extent of the disclosure authorized; and (vi) taxpayer's signature and date signed. These requirements are fully described in the regulation section titled Secrecy of Information; Penalty in the Virginia Administrative Code, 23 VAC 10-20-10.

TAX currently honors all of these power of attorney forms, but it does not have an automated, integrated system that would ensure that a power of attorney is automatically recognized throughout all of TAX's automated systems. Thus, for example, when a person named as a power of attorney is communicating directly with an auditor, there is a manual process by which the auditor knows to send correspondence to that person. When automated bills or correspondence are sent out, however, TAX currently does not have a way for those automatic systems to be aware of the power of attorney and to send applicable correspondence to that person.

Proposal

This bill would require TAX to provide a copy of any written correspondence, documentation, or other written materials that relate to a tax matter for which a taxpayer has filed a power of attorney to the person named as power of attorney. The copy would be required to be furnished to the person named as power of attorney at the same time the information is provided to the taxpayer and under the same delivery method used.

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cc : Secretary of Finance

Date: 1/25/2009 JKL
SB905F161