

DEPARTMENT OF TAXATION

2011 Fiscal Impact Statement

1. **Patron** Betsy B. Carr

3. **Committee** House Finance

4. **Title** Virginia Free File Tax Program

2. **Bill Number** HB 2321

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would require the Tax Commissioner to renegotiate the agreement with the "Consortium of Virginia" in order to remove language prohibiting Virginia from offering free electronic filing services directly to individual income tax taxpayers. The bill would direct the Department of Taxation to reinstate the Virginia iFile program.

The bill would be effective for taxable years beginning on and after January 1, 2012.

6. Budget amendment necessary: No.

7. Fiscal Impact Estimates are: Final. (See Line 8.)

8. Fiscal implications:

Administrative Impact

The Department of Taxation considers implementation of this bill as routine, and would not require additional funding at this time. However, based upon the terms and conditions associated with the version of fillable forms that will be provided to the Department, there may be costs associated with the implementation that are impossible to estimate at this time.

Revenue Impact

There is no revenue impact for this bill.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Background

In the 2010 Session, the General Assembly enacted Chapter 535 of the Acts of Assembly of 2010 (HB 1349) that required the Department of Taxation to establish a Virginia Free File program based on the IRS Free File program. The legislation authorized the Department of Taxation execute a non-monetary agreement with the Consortium of Virginia for the purpose of offering free, online tax return preparation and filing services to 70% of Virginia taxpayers with the lowest incomes.

The Virginia Free File program, effective for taxable years beginning on and after January 1, 2010, is based on and subject to the provisions of the agreement between the Internal Revenue Service (IRS) and the Free File Alliance. The federal free file agreement prohibits the IRS from competing with the Free File Alliance by providing free online preparation and filing services. Tax preparation software companies consider Virginia's iFile program as competing with their products. Therefore, the Department of Taxation was required to eliminate its iFile program as a condition of establishing a Virginia Free File Program based on the federal free file agreement.

Because the Virginia Free File program will not provide free electronic filing for all Virginia citizens, the Department of Taxation took several steps to provide as many electronic filing options as possible. The Department reached out to all members of the federal Free File Alliance to invite them to participate in the Virginia Free File program. As a result, TAX has six software companies providing free electronic filing to taxpayers. The Department also obtained a commitment by the CCIA to provide a version of the fillable forms similar to the federal forms. These fillable forms can be electronically filed. Unfortunately, the CCIA was not able to provide fillable forms in time for filing most of the 2010 returns. Some paper returns filed with local Commissioners of the Revenue were submitted to the Department by the local Commissioner of Revenue using iFile. The Department negotiated a one-year exception to allow local Commissioners to use an alternative electronic means of submitting returns filed with them. Afterwards, the local Commissioners of the Revenue will be able to use fillable forms for this purpose.

Proposal

Under this bill, the Tax Commissioner would be directed to renegotiate the agreement with the Consortium of Virginia in order to remove language prohibiting Virginia from offering free electronic filing services directly to individual income tax taxpayers. The bill would also require the Department of Taxation to reinstate the Virginia iFile program.

The agreements between the Department of Taxation and members of the Virginia Consortium do not directly prohibit iFile. The language that effectively prohibits Virginia from offering iFile is that which requires that the Virginia free file program conform to the federal free file agreement. Because Chapter 535 of the Acts of Assembly of 2010 expressly requires that Virginia's free file program be based on the federal free file program, renegotiating the terms of the agreements with members of the Virginia Consortium cannot accomplish the objective of reinstating iFile. That would require changes in the federal free file agreement. Because that agreement was established in

2002 via a negotiated public rulemaking by the federal government, and Virginia was not a party to that rulemaking procedure, it is very unlikely that the federal free file agreement will be changed.

The CCIA has committed to the Department of Taxation that one or more participating technology companies will provide a Virginia version of the IRS fillable forms through the Virginia Free File Program sometime between May 1, 2011, and September 30, 2011. These fillable forms will allow Virginia taxpayers to enter their information online and then either file electronically or print and mail the forms. If filed electronically there will be some data verification procedures to reduce errors. For example, the taxpayer's name and social security number would be verified before being transmitted to the Department of Taxation, eliminating one of the common errors made by taxpayers. The data verifications performed by fillable forms, however, would not be as extensive as performed by iFile.

Therefore, provided that the CCIA keeps their commitment to provide a Virginia version of the IRS fillable form, in 2012 all Virginia taxpayers will have at least one option to file their Virginia income tax electronically for no charge.

This bill would be effective for taxable years beginning on and after January 1, 2012.

Similar Bill

Senate Bill 1450 would require the Department of Taxation to provide all required state tax forms as fillable forms in a portable document format on its website.

cc : Secretary of Finance

Date: 1/30/2011 dtm
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