

# DEPARTMENT OF TAXATION

## 2011 Fiscal Impact Statement

1. **Patron** Frederick M. Quayle

3. **Committee** House Finance

4. **Title** Taxation; accrual of interest on assessments  
in dispute

2. **Bill Number** SB 1152

**House of Origin:**

       **Introduced**

       **Substitute**

  X   **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would provide that, after a taxpayer has filed an application for correction of an assessment with TAX, interest would accrue on the outstanding liability at the rate prescribed by *Va. Code* § 58.1-15 until nine months from the date of assessment. From nine months after the date of assessment until TAX issues a determination, interest would accrue at the federal short-term rate established pursuant to IRC § 6621(b).

If TAX determines that any portion of the assessment is correct, interest would resume accruing at the rate prescribed by *Va. Code* § 58.1-15 thirty days after the date of the action for correction.

This bill would be effective for administrative appeals filed on or after July 1, 2011.

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

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

### 8. **Fiscal implications:**

#### Administrative Impact

TAX considers implementation of this bill as routine, and does not require additional funding.

#### Revenue Impact

This bill would have an unknown, but relatively small, revenue impact.

### 9. **Specific agency or political subdivisions affected:**

Department of Taxation

**10. Technical amendment necessary: No.**

**11. Other comments:**

Corrections of Erroneous Assessments

A taxpayer may contest an assessed tax within 90 days from the date of assessment. Unless the collection is in jeopardy, TAX cannot collect a contested assessment until a final determination has been made.

If TAX determines that a taxpayer has been erroneously or improperly assessed with any tax administered by TAX, or that an action with respect to a transferred credit or other tax attribute is erroneous, TAX may correct the action or assessment. If the assessment exceeds the proper amount, the taxpayer will be exonerated and TAX will refund any money paid. If the assessment is less than the proper amount, the applicant must pay the amount owed. Upon final determination, TAX must state in writing the facts and law supporting its decision.

Interest Rates

Unless otherwise specifically provided, *Va. Code* § 58.1-15 provides that interest on omitted taxes, assessments, and refunds be computed at a rate equal to the rate of interest established pursuant to IRC § 6621. The rate of interest on omitted taxes and assessments is the federal underpayment rate established pursuant to IRC § 6621(a)(2) plus two percent. The rate of interest on refunds is the federal overpayment rate for non-corporate taxpayers established pursuant to IRC § 6621(a)(1) plus two percent.

The federal underpayment rate pursuant to IRC § 6621(a)(2) is equal to the federal short-term rate plus three percentage points. The federal overpayment for individuals pursuant to IRC § 6621(a)(1) is equal to the federal short-term rate plus three percentage points. The federal short-term rate under IRC § 6621(b) is a rate that is determined by the IRS for the first month of each calendar quarter (January, April, July, and November). This rate is based on the average market yield during any one-month period on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less. The federal short term rate for January 2011 is less than 0.5%. For the first quarter of 2011, the federal underpayment rate is 3% and the Virginia underpayment rate is 5%.

Proposed Legislation

This bill would provide that, after a taxpayer has filed an application for correction of an assessment with TAX, interest would accrue on the outstanding liability at the rate prescribed by *Va. Code* § 58.1-15 until nine months from the date of assessment. From nine months after the date of assessment until TAX issues a determination, interest would accrue at the federal short-term rate established pursuant to IRC § 6621(b). Because rates are rounded to the nearest whole percent, this would result in an interest rate of zero percent for the first quarter of 2011.

If TAX determines that any portion of the assessment is correct, interest would resume accruing at the rate prescribed by *Va. Code* § 58.1-15 thirty days after the date of the action for correction.

This bill would be effective for administrative appeals filed on or after July 1, 2011.

cc : Secretary of Finance

Date: 2/8/2011 KLC  
SB1152FE161