DEPARTMENT OF TAXATION
2012 Fiscal Impact Statement

1. Patron Mark L. Cole

2. Bill Number HB 35

House of Origin:
_____ **Introduced**
_____ **Substitute**
_____ **Engrossed**

Second House:
_____ **In Committee**
_____ **Substitute**
__X__ **Enrolled**

3. Committee Passed House and Senate

4. Title Reduce Period of Limitation for Collection Action

5. Summary/Purpose:

This bill would reduce the period of limitations for the Department of Taxation (the "Department") to make or institute collection action by levy, proceeding in court, or any other means available to the Tax Commissioner from ten to seven years from the date of the assessment.

This bill would also reduce the period of limitations for the Department to apply interest and penalty to a delinquent tax liability from seven to six years from the date of last contact with the taxpayer if no memorandum of lien has been appropriately filed.

This effective date is not specified.

6. Budget amendment necessary: No.

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

8. Fiscal implications:

Administrative Cost

The Department considers implementation of this bill as "routine," and does not require additional funding.

Revenue Impact

In general, some form of collection action is usually taken early on within the current ten year limitations period. In the event that the Department had an outstanding receivable that was older than 7 years for which no attempted collection action was made, this bill would require the Department to discharge that assessment. Because it is highly unusual for the Department to not have instituted any collection action prior to seven years from the date of assessment, this bill may cause an unknown, but likely very minimal, revenue loss.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Current Law

For most of the taxes administered by the Department, the period of limitations for the Department to make an assessment is within three years from the last day prescribed by law for the timely filing of the return. In the case of a false or fraudulent return with the intent to evade payment or a failure to file a required return, the period of limitations for the Department to make an assessment is within six years from the last day prescribed by law for the timely filing of the return.

For income tax, the period of limitations for the Department to make an assessment is within three years from the last day prescribed by law for the timely filing of the return. In the case of a false or fraudulent return with the intent to evade payment or a failure to file a required return, there is no period of limitations for the Department to make an assessment.

In 2010, legislation was passed (2010 *Acts of Assembly*, Chapter 30, House Bill 17) that reduced the period of limitations for the Department to make or institute collection action by levy, proceeding in court, or any other means available to the Tax Commissioner under the laws of the Commonwealth from twenty to ten years from the date of the assessment.

Proposal

This bill would reduce the period of limitations for the Department to make or institute collection action by levy, proceeding in court, or any other means available to the Tax Commissioner under the laws of the Commonwealth from ten to seven years from the date of the assessment.

This bill would also reduce the period of limitations for the Department to apply interest and penalty to a delinquent tax liability from seven to six years from the date of last contact with the taxpayer if no memorandum of lien has been appropriately filed.

The effective date of this bill is not specified. The Department would apply its provisions to assessments dated July 1, 2012 and after.

cc : Secretary of Finance

Date: 2/27/2012 tlg
HB35FER161