

DEPARTMENT OF TAXATION

2012 Fiscal Impact Statement

1. **Patron** Salvatore R. Iaquinto

3. **Committee** House Finance

4. **Title** Real Property Tax; Exception for the
Collection of Omitted or Under-Assessed
Taxes

2. **Bill Number** HB 483

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would limit a local commissioner of the revenue or tax assessing officer's ability to change an erroneous tax assessment or add an omitted tax assessment for any of the three preceding tax years. The bill would provide that for real property taxes where the validity of the valuation is at issue, localities may impose a new assessment or change the assessment only if the error or omission resulted from 1) fraud on the part of the taxpayer or 2) new construction, construction of any improvements on the property, or a change in the use of tax-exempt property that nullifies the exemption. Increases in assessments for prior years made by local boards of equalization would be subject to the same restrictions.

Under current law, if the local commissioner of the revenue or tax-assessing officer discovers that a local tax was never assessed or assessed at an incorrect rate for any of the three preceding tax years, the commissioner or local assessor may assess the tax at the rate prescribed for the year in question, and, where applicable, may add penalty and interest. Local boards of equalization are also authorized to increase, decrease, or affirm assessments, but may not make assessment changes that are retroactive for past years.

The effective date of this bill is not specified.

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

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

8. **Fiscal implications:**

This bill would have no impact on state revenues. To the extent that local commissioners of the revenue and other assessing officials would be limited in their ability to assess previously omitted taxes or increase the rate of taxes that were erroneously assessed at less than the law required, the bill would result in a decrease in local real property tax revenues, the magnitude of which is unknown.

9. Specific agency or political subdivisions affected:

All localities

10. Technical amendment necessary: Yes.

This bill would limit a local board of equalization's ability to increase assessments for prior years to correct errors in assessments. Under current law, a board of equalization is not authorized to make assessment changes that are retroactive for past years. The law requires that fair market value of real property be established by the Board of Equalization as of January 1 of the applicable year, or as of July 1, of the applicable year if a county or city has adopted July 1 as its tax day for real property. As such, limiting a board of equalization's power to increase assessments for prior years is unnecessary, as boards are not currently authorized to change assessments for prior years.

To correct this error, the Department of Taxation suggests the following technical amendment:

Page 1, line 18-19, after heard

Strike: Any increase in assessments for prior years is subject to the restrictions in § 58.1-3903.

11. Other comments:

Boards of Equalization

Circuit courts within each county or city are authorized to appoint a three-to-five member Board of Equalization, whose purpose is to hear complaints regarding a lack of uniformity or errors in acreage in a real property assessment or complaints that real property is assessed at more than its fair market value. After hearing these complaints, the Board is authorized to increase, decrease, or confirm assessments based on fairness. If the Board determines that an increase in the assessment amount is required, it must provide notice to the owner of the property and an opportunity to show cause against such increase before the increase is applied.

Local Commissioners of the Revenue or Tax-Assessing Officers

Local commissioners of the revenue of counties and cities and tax-assessing officers of towns are authorized to assess taxes as far back as the three preceding tax years if they discover that a local tax was never assessed or was assessed at less than the law required. Penalty and interest can be added to the assessment from the first day following the due date in the year when the taxes should have been paid, and accrue from that date until payment. If the assessment was required through no fault of the taxpayer, the penalty and interest accrue after 30 days the date of assessment until payment.

Proposal

The bill would provide that for real property taxes where the validity of the valuation is at issue, local commissioners of the revenue and local taxing officials may impose a new assessment or change the assessment for the three preceding tax years only if the error or omission resulted from 1) fraud on the part of the taxpayer or 2) new construction, construction of any improvements on the property, or a change in the use of tax-exempt property that nullifies the exemption. Increases in assessments for prior years made by local boards of equalization would be subject to the same restrictions.

The effective date of this bill is not specified.

Similar Legislation

House Bill 31 would require real property assessors to base their fair market value determinations for real property solely on permissible uses of such property, when the property's use is subject to federal, state or local restrictions.

House Bill 80 would require the local assessing official to separately assess the fair market value of wetlands on real property, if requested by the property owner.

Senate Bill 48, Senate Bill 73, and House Bill 1073 (identical) would establish criteria by which an assessor must determine fair market value for real estate used in whole or in part as residential rental property as defined by ordinance or the locality.

cc : Secretary of Finance

Date: 1/21/2012 KP
DLAS File Name: HB 483F161