

DEPARTMENT OF TAXATION 2013 Fiscal Impact Statement

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| 1. Patron Emmett W. Hanger, Jr. | 2. Bill Number <u>SB 710</u> |
| 3. Committee Senate Finance | House of Origin:
<u> X </u> Introduced
<u> </u> Substitute
<u> </u> Engrossed |
| 4. Title Local Taxes; Local Authority to Withhold
Interest Payments on Refunds | Second House:
<u> </u> In Committee
<u> </u> Substitute
<u> </u> Enrolled |

5. Summary/Purpose:

This bill would authorize localities to withhold interest on refunds provided to local taxpayers if the refunds are due as a result of willful, intentional errors made by the taxpayer.

This bill would also require the Chairmen of the House and Senate Committees on Finance to convene a working group consisting of representatives from several Virginia business and local government organizations to consider the feasibility and local fiscal impact associated with: i) transitioning to a uniform method for assessing interest earned on overpayment of taxes or charged for underpayment of taxes, and potential assessment methods for uniform statewide application; and ii) adopting uniform criteria for evaluating and applying timely repayment of taxes. The working group would be required to submit a written report to the Chairmen no later than November 1, 2013.

This authority would be effective for taxable years beginning on and after January 1, 2014.

- 6. Budget amendment necessary:** No.
- 7. Fiscal Impact Estimates are:** Not available. (See Line 8.)
- 8. Fiscal implications:**

Administrative Costs

This bill would have no administrative impact on the Department.

Revenue Impact

This bill would have no impact on state revenue.

To the extent a locality elects to withhold interest payments on qualifying refunds, the locality would experience an increase in local revenues, the magnitude of which is unknown.

9. Specific agency or political subdivisions affected:

All localities

10. Technical amendment necessary: No.

11. Other comments:

Interest on Delinquent Taxes

Among their many powers, local governing bodies are authorized to require payment of interest on delinquent taxes. Localities that elect to impose such interest must pay interest at the same rate on overpayments due to erroneously assessed taxes. Localities are not required to pay interest on overpayments if 1) the amount of the refund is ten dollars or less or (2) the refund is for personal property taxes paid to a prorating locality on tangible personal property that subsequently acquired situs in another locality after tax day. Interest can accrue beginning no earlier than the first day following the day such taxes are due, and may not exceed ten percent per year. Local governing bodies may impose interest at a rate not to exceed the rate of interest established in the Internal Revenue Code, or ten percent annually, whichever is greater, for the second and subsequent years of delinquency.

The Internal Revenue Code sets forth the rates on interest for underpayments and overpayments of federal income tax. The Code defines the underpayment rate as the sum of the federal short-term rate plus three percentage points. The Secretary determines the federal short-term rate for the first month in each calendar quarter. For the first quarter of 2013, the federal underpayment rate is 3%.

Proposal

This bill would authorize localities to withhold interest on refunds provided to local taxpayers if the refunds are due as a result of willful errors made by the taxpayer. An act is "willful," if it is done voluntarily and intentionally, with the specific intent to fail to do something the law requires to be done.

This bill would also require the Chairmen of the House and Senate Committees on Finance to convene a working group consisting of representatives from several Virginia organizations to consider the feasibility and local fiscal impact associated with: i) transitioning to a uniform method of assessing interest earned on overpayment of taxes or charged for underpayment of taxes, and potential assessment methods for uniform statewide application; and ii) adopting uniform criteria for evaluating and applying timely repayment of taxes. The working group would be required to submit a written report to the Chairmen no later than November 1, 2013. The working group would consist of representatives from the National Federation of Independent Business, the Virginia Manufacturers Association, the Virginia Chamber of Commerce, the Virginia Agribusiness

Council, the Virginia Retail Merchants Association, the Virginia Hospitality and Travel Association, the Virginia Association of Counties, the Virginia Municipal League, the Treasurers' Association of Virginia, the Commissioners of the Revenue Association of Virginia, and the Virginia Society of Certified Public Accountants.

This authority would be effective for taxable years beginning on and after January 1, 2014.

Similar Legislation

House Bill 1329 and **Senate Bill 937** (identical) would authorize localities to withhold interest on the refund of local taxes when the erroneous assessment is based on erroneous information submitted by the taxpayer to the assessing official.

House Bill 1534 and **House Bill 1578 (identical)** would authorize localities to withhold interest on refunds of local taxes owed to local taxpayers, provided: 1) the refunds are due as a result of errors made by the taxpayer; 2) the locality does not collect interest on taxes that are delinquent due to errors made by the locality; and 3) the locality refunds the overpayments within 60 days of the confirmed correction, and balances due to the locality are paid within 60 days of the notice of correction.

cc : Secretary of Finance

Date: 1/10/2013 KP

DLAS File Name: SB710F161