

DEPARTMENT OF TAXATION

2014 Fiscal Impact Statement

1. **Patron** L. Scott Lingamfelter

3. **Committee** Senate Finance

4. **Title** Confidentiality of Taxpayer Information;
Penalties

2. **Bill Number** HB 99

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 X **In Committee**

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would increase the penalty imposed for the unlawful dissemination or publication of tax information from a Class 2 misdemeanor to a Class 1 misdemeanor.

The increased penalty imposed by this bill would apply to the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged to implement provisions of the Land Preservation Tax Credit or the International Fuel Tax Agreement, or any former officer or employee of any of the aforementioned offices who impermissibly divulges tax information acquired in the performance of their duties. This penalty would also apply to any person who disseminates, publishes, or causes to be published any confidential tax document which he knows or has reason to know is a confidential tax document.

The effective date of this bill is not specified.

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

7. **No Fiscal Impact** (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

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

According to the Department of Planning and Budget, although insufficient data exists to determine the fiscal impact due to this proposal, the proposed legislation could result in an increase in the jail population since a violation of the section changes from a Class 2 misdemeanor to a Class 1 misdemeanor. A Class 1 misdemeanor could result in a sentence of up to 12 months in jail (and a fine up to \$2,500), which is six months longer in jail than a Class 2 misdemeanor (and a larger fine by up to \$1,500 than a Class 2

misdemeanor). Any increase in jail population will increase costs to the state. The Commonwealth presently pays the localities \$4.00 a day for each misdemeanant or otherwise local responsible prisoner held in a jail. It also funds a large portion of local and regional jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's FY2012 Jail Cost Report (November 1, 2013), the estimated total state support for local and regional jails averaged \$30.06 per state inmate, per day in FY 2012.

Revenue Impact

This bill would have no impact on General Fund revenues.

9. Specific agency or political subdivisions affected:

Department of Taxation
Local Commissioners and Treasurers of the Revenue

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Unless an exception applies, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to the law, or any former officer or employee of any of the aforementioned offices may not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm, or corporation. This prohibition applies to any copy of a federal return or federal return information that is required to be attached to or included in the Virginia return. It also applies to any reports, returns, financial documents or other information filed with the Attorney General pursuant to the provision of the *Code of Virginia* implementing the Tobacco Master Settlement Agreement. Any person who violates this provision is currently guilty of a Class 2 misdemeanor.

It is unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document. This prohibition does not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Under current law, any person who violates this provision is guilty of a Class 2 misdemeanor.

Proposed Legislation

This bill would increase the penalty imposed for the unlawful dissemination or publication of tax information from a Class 2 misdemeanor to a Class 1 misdemeanor. This would increase the penalties that may apply to such disclosures from a jail sentence of up to 6

months and a fine of up to \$1,000, to a jail sentence of up to 12 months and a fine of up to \$2,500.

The increased penalty imposed by this bill would apply to the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged to implement provisions of the Land Preservation Tax Credit or the International Fuel Tax Agreement, or any former officer or employee of any of the aforementioned offices who impermissibly divulges tax information acquired in the performance of their duties. This penalty would also apply to any person who disseminates, publishes, or causes to be published any confidential tax document which he knows or has reason to know is a confidential tax document.

The effective date of this bill is not specified.

Similar Bills

House Bill 121 would require the Department to disclose to the General Assembly the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of how few taxpayers took the deduction or credit, or any other circumstances.

House Bill 460 would require the Department to publish specified information on the Motion Picture Production Tax Credit in its report to the General Assembly, regardless of whether such information is classified as to prevent the identification of particular taxpayers, reports, or returns and items.

House Bill 1220 would require the Department to make certain information regarding the Research and Development Expenses Tax Credit available to the General Assembly upon request, regardless of the number of taxpayers applying for the credit.

cc : Secretary of Finance

Date: 2/7/2014 MTH
HB99F161