DEPARTMENT OF TAXATION
2016 Fiscal Impact Statement

1. Patron James A. "Jay" Leftwich

2. Bill Number HB 643

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

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

3. Committee Senate Finance

4. Title The Department of Taxation; Limitations on Collecting Taxes

5. Summary/Purpose:

This bill would provide that the Department of Taxation shall cease efforts to collect a tax seven years after assessment of the tax.

The bill would be effective for assessments made on and after July 1, 2016.

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.

Revenue Impact

Because this bill would be effective for assessments made after July 1, 2016, the Department would not be required to cease collection efforts on any assessments until June 30, 2023. Beginning with Fiscal Year 2024 there would be a revenue loss to the extent that otherwise collectible assessments would be discharged as soon as they were seven years old.

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 in which to make an assessment.

Until 1990 there was no limitation on the Department's ability to collect assessments. In 1990, legislation was passed (1990 Acts of Assembly, Chapter 659, Senate Bill 82) that imposed a 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 to twenty years from the date of the 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.

In 2012, legislation was passed (2012 Acts of Assembly, Chapter 840, House Bill 35) 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 ten to seven years from the date of the assessment.

On October 17, 2014, the Department issued a ruling letter (P.D. No. 14-177) explaining that the exception for collection efforts made or initiated before the cutoff date is interpreted broadly. Since some form of collection action is usually taken early on within the seven-year limitations period, most assessments remain collectible until satisfied.

Proposed Legislation

This bill would require the Department to cease all collection actions seven years after an assessment was made, even if the collection action had been initiated before the expiration of the seven-year period. However, collections actions pursuant to execution of liens created by a judgment lien or a memorandum of lien under *Va. Code* § 58.1-1805 would not be affected.

The bill would be effective for assessments made on and after July 1, 2016.

cc : Secretary of Finance
Date: 2/11/2016 JPJ
HB643FE161