

DEPARTMENT OF TAXATION

2016 Fiscal Impact Statement

1. **Patron** Janet D. Howell

3. **Committee** House Finance

4. **Title** Withholding Tax and Cigarette Tax;
Disclosure of Information

2. **Bill Number** SB 325

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 X **In Committee**

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide an exception to Virginia's law prohibiting the disclosure of taxpayer information by allowing the Department of Taxation ("the Department") to disclose whether an employer or another person or entity that is responsible for submitting withholding records to the Department has submitted such records for a specific taxable year.

This bill would also authorize the Department to make available a list of licensed cigarette stamping agents to federal, state, and local law enforcement agencies upon request. The Department would be required to update the list of licensed cigarette stamping agents monthly.

The effective date of this bill is not specified.

This is a Department of Taxation bill.

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

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

8. **Fiscal implications:**

Administrative Costs

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

Revenue Impact

This bill would have no impact on General Fund revenues.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Prohibition on the Disclosure of Information

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 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. It is also 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. Any person who violates these provisions is guilty of a Class 1 misdemeanor.

Virginia Withholding Requirements

Every employer making payment of wages is generally required to withhold Virginia income tax with respect to the wages of each employee for each payroll period. Such employers are required to file withholding returns and make periodic withholding payments throughout the year. Depending on a particular employer's average monthly liability and the aggregate amount required to be withheld, periodic withholding returns are required to be filed on a quarterly, monthly, or semi-weekly basis. In addition to filing periodic withholding returns throughout the year, employers are required to file an annual withholding return, which must be accompanied by written statements for each employee who had Virginia income tax withheld. Examples of written statements include Forms W-2 and Forms 1099.

Non-Compliance with Virginia Withholding Requirements

To combat refund fraud and identity theft, the Department currently compares employer-filed written statements with data reported on a taxpayer's return. Where there is inconsistency between the data reported by a taxpayer and the data reported by the taxpayer's employer, the Department can stop a return before issuing potentially fraudulent refunds and request additional information from the employee regarding his or her withholding. However, because of the prohibition on disclosing confidential taxpayer information, the Department cannot currently disclose to the employee why his or her refund is being delayed and why it is requesting additional information regarding his or her withholding if such issues are caused by an employer's failure to submit complete withholding records on behalf of such employee. Such disclosure would result in an impermissible disclosure of confidential taxpayer information regarding the employer.

Licensing of Stamping Agents

No person may purchase, possess or affix Virginia revenue stamps to cigarette packs without first obtaining a permit to do so from the Department. Only manufacturers, wholesale dealers and retail dealers may be permitted as stamping agents. The Department conducts a background investigation of the applicant and any of its officers and employees deemed necessary by the Department. In addition to the background investigations required to obtain a license, the Department may conduct background investigations of officers and employees hired after the permit is issued or renewed. The Department may refuse to issue a stamping agent permit or may suspend, revoke or refuse to renew a stamping agent permit if it determines that the applicant or any of its officers and employees have been:

- Found guilty of any fraud or misrepresentation in any connection;
- Convicted of robbery, extortion, burglary, larceny, embezzlement, fraudulent conversion, gambling, perjury, bribery, treason, or racketeering; or
- Convicted of a felony.

The Department may at any time revoke the permit of a stamping agent who violates any of the provisions of the Cigarette Tax.

The Department is not currently authorized to publish a list of licensed cigarette stamping agents. The Department is currently authorized to publish a list of licensed distributors of other tobacco products, which includes cigars, smokeless tobacco, and pipe tobacco.

Proposed Legislation

This bill would provide an exception to Virginia's law prohibiting the disclosure of taxpayer information by allowing the Department to disclose whether an employer or another person or entity that is responsible for submitting withholding records to the Department has submitted such records for a specific taxable year. This would allow the Department to disclose to employees why their refunds are being delayed and why the Department is requesting additional information regarding their withholding if such issues are caused by an employer's failure to submit complete withholding records on behalf of the employee.

This bill would also authorize the Department to make available a list of licensed cigarette stamping agents to federal, state, and local law enforcement agencies by request. The Department would be required to update the list of licensed cigarette stamping agents monthly. This would provide an efficient way for law enforcement personnel to determine whether a business is a properly licensed cigarette stamping agent, and an additional safeguard against illegal sales of cigarettes.

The effective date of this bill is not specified.

Similar Bills

House Bill 951 is identical to this bill.

cc : Secretary of Finance

Date: 2/11/2016 MTH
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