

# DEPARTMENT OF TAXATION

## 2018 Fiscal Impact Statement

1. **Patron** M. Keith Hodges

3. **Committee** House Finance

4. **Title** Secrecy of Tax Information; Authorizes  
Localities to Disclose Information to Third  
Party Contractors

2. **Bill Number** HB 495

**House of Origin:**

X **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would provide an exception to Virginia's law prohibiting the disclosure of taxpayer information by authorizing a commissioner of the revenue or treasurer of a locality to disclose tax information to nongovernmental entities with which the locality has contracted to provide services that assist it in the administration of refund processing or other services related to the administration of taxes. This bill would prohibit such disclosure unless the commissioner of the revenue or treasurer has obtained written acknowledgement from the nongovernmental entity that the confidentiality and nondisclosure obligations of and penalties apply to such entity and that such entity agrees to abide by such obligations.

The effective date for 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.

#### Revenue Impact

This bill would have no General Fund revenue impact.

### 9. **Specific agency or political subdivisions affected:**

Department of Taxation  
Local Commissioners of the Revenue and Treasurers

**10. Technical amendment necessary: No.**

**11. Other comments:**

Current Law

Unless an exception applies, the Tax Commissioner, commissioner of the revenue, treasurer, and their staff may not divulge any information acquired in the performance of their 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 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.

Under current law, the Department is authorized to disclose tax information to nongovernmental entities with which it has contracted to provide services that assist it in the administration of refund processing or other services related to the administration of taxes.

*Clinchfield v. Robbins*

The Virginia Supreme Court held that the General Assembly had not intended to allow a commissioner of revenue to overcome the lack of authority to hire a private accounting firm by appointing the members of such a firm as deputy commissioners to conduct confidential tax audits. *Clinchfield Coal Co. v. Robbins*, 261 Va. 12, 541 S.E.2d 289 (2001).

Proposed Legislation

This bill would provide a commissioner of the revenue or treasurer of a locality to disclose tax information to nongovernmental entities with which the locality has contracted to provide services that assist it in the administration of refund processing or other services related to the administration of taxes. This bill would prohibit such disclosure unless the commissioner of the revenue or treasurer has obtained written acknowledgement from the nongovernmental entity that the confidentiality and nondisclosure obligations of and penalties apply to such entity and that such entity agrees to abide by such obligations.

This bill would overturn *Clinchfield* by permitting a commissioner of revenue or treasurer to disclose tax information to nongovernmental entities with which the locality has contracted to assist in the administration of taxes.

The effective date for this bill is not specified.

cc : Secretary of Finance

Date: 1/16/2018 JLOF  
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