

DEPARTMENT OF TAXATION

2021 Fiscal Impact Statement

1. **Patron** Carrie E. Coyner

3. **Committee** Senate Finance and Appropriations

4. **Title** Delinquent Income Tax Returns

2. **Bill Number** HB 2059

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 X **In Committee**

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would require the Department of Taxation ("the Department") to request taxpayers to file delinquent returns unless there are indications of fraud or a willful failure to file. Filed returns would be enforced pursuant to factors outlined in the bill ensuring compliance and proper administration of staffing and other resources of the Department.

This bill would require the Department to enforce its delinquency procedures with respect to income tax returns for six years unless the manager designated by the Tax Commissioner has approved enforcement for a period that is in excess of six years and documented the reasons for approval. A taxpayer may voluntarily file returns for taxable years beyond the established period without the approval of the designated manager.

If enacted during the 2021 General Assembly, Special Session I, this bill would become effective July 1, 2021.

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

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

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

Fiscal Impact

The six-year restriction is consistent with the Department of Taxation's current audit procedures and is not expected to have an impact on revenue.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Background

Although there is no limitation on the Department's authority to assess income and withholding taxes when no return is filed or fraud exists, the Department has rarely assessed more than six years unless the taxpayer has agreed to extend the period for assessment or fraud is involved.

The General Assembly has directed the Department to conduct several tax amnesty programs since 1990. As one of the conditions to the grant of amnesty, all income tax returns were required to be filed for all open taxable years without limitation. This policy applied only with respect to requests for amnesty and did not apply to audits in the normal course of business. Similar "all open taxable years" requirements are sometimes applied when taxpayers request an offer in compromise. It is possible that some automated correspondence programs also asked for more than six years of returns.

Proposal

This bill would require the Department to request taxpayers to file delinquent returns unless there are indications of fraud or a willful failure to file. Filed returns would be enforced pursuant to factors outlined in the bill ensuring compliance and proper administration of staffing and other resources of the Department.

This bill would require the Department to enforce its delinquency procedures with respect to income tax returns for six years unless the manager designated by the Tax Commissioner has approved enforcement for a period that is in excess of six years and documented the reasons for approval. A taxpayer may voluntarily file returns for taxable years beyond the established period without the approval of the designated manager.

The Department would be required to develop guidelines for the enforcement procedures. The guidelines would be exempt from the Administrative Process Act.

If enacted during the 2021 General Assembly, Special Session I, this bill would become effective July 1, 2021.

cc : Secretary of Finance

Date: 2/15/2021 JPJ
HB2059FE161