

DEPARTMENT OF TAXATION

2023 Fiscal Impact Statement

1. **Patron** Timothy V. Anderson

3. **Committee** Senate Finance and Appropriations

4. **Title** State taxes; notice before penalty and interest.

2. **Bill Number** HB 1645

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 X **In Committee**

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would limit the Department's ability to impose penalty and interest for failure to pay the litter tax in full without notifying the taxpayer 30 days prior to the return due date that a return is required. Under current law, penalty and interest is generally applied to delinquent litter taxes, and there is no requirement for the Department to provide notice that a return is required or the due date.

If enacted during the 2023 Regular Session of the General Assembly, this bill would become effective July 1, 2023.

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

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

8. **Fiscal implications:**

Administrative Costs

The Department considers implementation of this bill to be routine and does not require additional funding.

Revenue Impact

This bill would not have a revenue impact, as the Department intends to notify affected taxpayers of their filing obligation more than 30 days prior to the return due date.

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

Department of Taxation

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

11. Other comments:

Background

The Virginia Litter Tax is imposed annually at a rate of \$20 per establishment from which business is conducted by manufacturers, wholesalers, distributors, and retailers of:

- Food for human or pet consumption;
- Groceries;
- Cigarettes and tobacco products;
- Soft drinks and carbonated waters;
- Beer and other malt beverages;
- Wine;
- Newspapers and magazines;
- Paper products and household paper;
- Glass containers;
- Metal containers;
- Plastic or fiber containers made of synthetic material;
- Cleaning agents and toiletries;
- Nondrug drugstore sundry products;
- Distilled spirits; and
- Motor vehicle parts.

An additional litter tax of \$30 per establishment is imposed on manufacturers, wholesalers, distributors, and retailers of groceries, soft drinks, carbonated waters, and beer and other malt beverages. The Department has interpreted groceries to include produce and dairy products.

Litter Tax revenues, minus the necessary expenses of the Department of Taxation for the administration of this tax, as certified by the Commissioner, are deposited into the Litter Control and Recycling Fund. Litter tax returns and payments are due on May 1 of each year. Virginia imposes a penalty equal to 100% of the tax assessed, plus an additional \$100 if the litter tax is paid late.

Legislation enacted during the 2020 General Assembly increased the litter tax rate from \$10 per establishment to \$20 per establishment, and increased the additional litter tax on each establishment is imposed on manufacturers, wholesalers, distributors, and retailers of groceries, soft drinks, carbonated waters, beer, and other malt beverages from \$15 per establishment to \$30 per establishment.

Additionally, as a result of legislation enacted during the 2020 General Assembly, effective for Litter Tax payments due May 1, 2021, an additional penalty of \$100 is applied to any late payments. This penalty applies in addition to the existing 100% penalty and any interest that may accrue. There is no statutory requirement that the Department provide notice to taxpayers that a Litter Tax return is required or the due date.

Proposal

This bill would limit the Department's ability to impose penalty and interest for failure to pay the litter tax in full without notifying the taxpayer 30 days prior to the return due date that a return is required.

If this bill is enacted during the 2023 Regular Session of the General Assembly, it would become effective July 1, 2023.

Similar Legislation

House Bill 1621 and **Senate Bill 996** are similar bills.

cc: Secretary of Finance

Date: 2/2/2023 ADD
HB1645FH1161