

# DEPARTMENT OF TAXATION

## 2022 Fiscal Impact Statement

1. **Patron** Carrie E. Coyner

3. **Committee** House Finance

4. **Title** Installment agreements for payment.

2. **Bill Number** HB 222

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

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

This bill would authorize the Department to enter into an installment agreement with a taxpayer for purposes of the individual income tax and corporate income tax only. Under current law, the Department is authorized to enter into an installment agreement with respect to any taxes that the agency administers.

This bill would require the Department to offer installment agreements to individual income taxpayers in which the taxpayer may satisfy his or her entire tax liability over a term of up to five years. This bill would limit installment agreements with respect to corporate income taxpayers to a maximum period of five years. Under current law and the Department's administrative policies, there are no such limitations with respect to the corporate income tax.

The bill also repeals the Department's authority to modify or terminate the installment agreement if the financial condition of the taxpayer has significantly changed or fails to provide a financial condition update upon request.

If this bill is enacted during the 2022 Regular Session of the General Assembly, it would become effective July 1, 2022.

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

7. **Fiscal Impact is:** Unknown (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 an unknown impact on revenues. While extending the maximum term of an installment agreement to five years could reduce annual collections, such reduction could be fully or partially offset by allowing additional individuals to qualify for an installment agreement in cases where they would not otherwise make payments. The Department would generally not be allowed to modify or terminate an installment agreement upon learning of a change in financial condition, which could impact the timing of when payments are made by certain taxpayers. However, the Department would retain the ability to do so after an installment payment is missed, the taxpayer becomes delinquent in other tax liabilities, or the taxpayer fails to file any required tax or informational return during the period in which such agreement is in effect.

As introduced, this bill would eliminate the Department's ability to enter into installment agreements for any tax except for the individual and corporate income taxes. This could have an unknown negative impact on revenues. The amendments suggested in Line 10 below would resolve this issue.

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

Department of Taxation

### **10. Technical amendment necessary: Yes.**

As currently drafted, this bill would authorize the Department to enter into an installment agreement with a taxpayer for purposes of the individual income tax and corporate income tax only. Under current law, the Department is authorized to enter into an installment agreement with respect to any taxes that the agency administers.

In addition, this bill would limit installment agreements for corporate income taxpayers to a maximum term of five years. Under current law, there are no specified time limits with respect to corporate income taxpayers.

It is the Department's understanding that this legislation was intended to set forth specific parameters with respect to installment agreements for individuals and not to modify existing law with respect to other taxpayers. If that is the Patron's intent, the Department recommends the following technical amendments:

Page 1, Line 13, after A. 1.

Strike: The

Insert: Except as specified in subsection A2, the

Page 1, Line 13-14, after any taxpayer

Strike: filing a return for taxes imposed under Article 10 of Chapter 3 (§ 58.1-400 et seq.)

Page 1, Line 23-24, after of the agreement

Strike: , not to exceed five years

## 11. Other comments:

### Installment Agreements

The Department routinely enters into installment agreements with taxpayers when taxpayers are unable to pay the full amount owed, but may do so over a period of time. The Department has the authority to modify or terminate any installment agreement for several reasons, such as a change in financial condition, failure to update financial condition upon request, failure to pay any installment when due, failure to pay other tax liabilities when due, or the taxpayer fails to file any required tax or informational return during the period in which such agreement is in effect.

Virginia law does not currently set forth maximum or minimum terms with respect to installment agreements. However, the Department has developed internal procedures to ensure fair and consistent review of requests for installment agreements. Such rules include considerations such as the amount owed, the taxpayer's financial situation and other hardship considerations, and whether the taxpayer routinely enters into and/or defaults on such installment agreements.

The Department historically has maintained a general policy of limiting the maximum term of installment agreements to a maximum of two years for individuals, but no limit was applied to corporations. However, during the COVID-19 pandemic, the Department has extended this general standard by allowing installment agreements of up to four years in certain circumstances where a taxpayer has a significant amount of outstanding tax liability and has not previously required an installment agreement and/or has not previously defaulted due to non-payment of taxes owed.

### Proposed Legislation

This bill would authorize the Department to enter into an installment agreement with a taxpayer for purposes of the individual income tax and corporate income tax only. Under current law, the Department is authorized to enter into an installment agreement with respect to any taxes that the agency administers.

This bill would require the Department to offer installment agreements to individual income taxpayers in which the taxpayer may satisfy his or her entire tax liability over a term of up to five years. This bill would limit installment agreements with respect to corporate income taxpayers to a maximum period of five years. Under current law the Department's administrative policies, there are no such limitations with respect to the corporate income tax.

The bill also repeals the Department's authority to modify or terminate the installment agreement if the financial condition of the taxpayer has significantly changed or fails to provide a financial condition update upon request. A significant change in financial circumstances or the failure to update their financial circumstances upon request would no longer be grounds for modifying or terminating the installment agreement. However, the Department would retain the ability to modify or terminate an installment agreement if the taxpayer fails to pay any installment when due, any other tax liabilities when due, or

file any required tax or informational return during the period in which such agreement is in effect.

Pursuant to recent legislation, the statute of limitations for collecting delinquent taxes was reduced to a period of seven years. This statute of limitations would be extended in cases where the taxpayer enters into an installment agreement. As a result, taxpayers who enter into installment agreements under this bill would be subject to collection action for an extended period of time of up to 12 years.

If this bill is enacted during the 2022 Regular Session of the General Assembly, it would become effective July 1, 2022.

cc : Secretary of Finance

Date: 2/4/2022 JPJ  
HB222F161