

**DEPARTMENT OF TAXATION
2003 Fiscal Impact Statement**

1. **Patron** Chichester

2. **Bill Number** SB 1030

3. **Committee** Senate Finance

House of Origin:
 Introduced
 Substitute
 Engrossed

4. **Title** Virginia Tax Amnesty Program

Second House:
 In Committee
 Substitute
 Enrolled

5. Summary/Purpose:

This bill would authorize the Tax Commissioner to operate a tax amnesty program during the 2004 fiscal year. This proposal would also provide new enforcement measures to the Department to encourage participation in the amnesty program.

This is an Executive Bill.

The effective date of this bill has not been specified.

6. Fiscal Impact Estimates are: Tentative. (See Line 8.)

6b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2002-03	\$0	GF
2003-04	\$40.5 Million	GF
2003-04	\$1.3 Million	TTF
2003-04	\$2.5 Million	Local
2004-05	\$0	GF

7. Budget amendment necessary: No.

8. Fiscal implications:

The Department's costs to administer this bill are included in the Executive Budget.

The Department estimates that this amnesty program would result in General Fund revenues of \$40.5 million in Fiscal Year 2004. If this bill is not enacted, the General Fund revenues forecast would have to be reduced by this amount. Passage of this bill is assumed in the Executive Budget.

The administration of the program would be outsourced as an extension of the Department's Public/Private Partnership and expenses would be paid from the Technology Partnership Fund and will not reduce amnesty revenues. The program costs are estimated at \$7 million, a significant portion of which relates to promoting and advertising the program.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: None.

11. Other comments:

1990 Virginia Tax Amnesty Program

In 1990, Virginia held its first tax amnesty program. The Amnesty Program began February 1, 1990 and ended March 31, 1990. With certain exceptions, any taxpayer required to file a return or pay any tax administered or collected by the Department of Taxation was eligible to participate in the program. Under the terms of this program, all civil and criminal penalties for the nonpayment, underpayment, non-reporting or under reporting of tax liabilities were waived upon the full payment of all taxes and interest owed.

During the 1990 program, the Department collected \$32.2 million of amnesty revenue. Over 27,000 delinquent taxpayers participated in the program. Direct program expenditures by the Department were \$1.3 million, or four cents expended for every dollar of amnesty revenue collected. Penalties waived under amnesty amounted to 6 percent of total tax and interest collected. The following table breaks down the program's successes between business and individual taxpayers:

	TOTAL	BUSINESS	INDIVIDUAL
Percent of Amnesty Requests Filed	100%	34%	66%
Percent of Amnesty Revenue Collected	100%	45%	55%
Average Amnesty Payment	\$1,125	\$1,495	\$938
New Taxpayers Added to Rolls	1,245	4	1,241
Average Payment by New Taxpayer	\$2,481	\$132	\$2,488

Also under the 1990 amnesty program, the penalties for failure to file individual and corporate income tax returns were changed from a total penalty of 10% to a penalty of 5% for each month that the return had not been filed up to a total cumulative penalty of 25%. These penalties were increased to encourage participation in the amnesty program.

Proposed Amnesty Program

Under this bill, the Tax Commissioner would be granted the authority to administer an amnesty program for a period ranging between 60 and 75 days anytime during the 2004

fiscal year. The Department would waive any penalties and 50% of the interest upon payment of the remaining balance.

The Tax Commissioner would establish guidelines and rules for the procedures for participation plus any other rules that are deemed necessary by the Tax Commissioner. The guidelines and rules issued by the Tax Commissioner regarding the Virginia Tax Amnesty Program would be exempt from the Administrative Process Act

With certain exceptions, any taxpayer, known or unknown, who currently has an outstanding assessment with the Department of Taxation or has not filed a return for any tax administered by the Department may apply for amnesty. The exceptions for eligibility to participate are as follows:

- Any taxpayer currently under investigation or prosecution for filing a fraudulent return or failing to file a return with the intent to evade tax would not be allowed to participate in this program.
- The date of an assessment or the due date of an unfiled return must be at least 90 days prior to the start of the amnesty program.
- Individual and corporate income taxes for the 2002 taxable year and later are not eligible for amnesty under this bill.

New Enforcement Measures

In order to encourage delinquent taxpayers to settle their outstanding liabilities with the Department, this proposal contains the following enhanced enforcement mechanisms:

- A new 20% penalty would be applied to the unpaid tax of any outstanding balance where a taxpayer who was eligible to participate in the Virginia Tax Amnesty program elected not to do so.
- Criminal investigators at the Department would be granted the authority to access criminal records and documents.

In addition, the Department is proposing a new compliance initiative, participation in the federal debt setoff program and legislation which would require out-of-state vendors to collect sales and use tax in compliance with Virginia law in order to do business with the Commonwealth.

Other Legislation

House Bill 2454 is identical to this bill.

cc : Secretary of Finance
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