

**DEPARTMENT OF TAXATION
2014 Fiscal Impact Statement**

1. **Patron** David J. Toscano
3. **Committee** Passed House and Senate
4. **Title** Confidentiality of Taxpayer Information

2. **Bill Number** HB 121
House of Origin:
 Introduced
 Substitute
 Engrossed
- Second House:**
 In Committee
 Substitute
 X **Enrolled**

5. Summary/Purpose:

This bill would require the Department of Taxation ("the Department") to, upon request by the General Assembly or any duly constituted committee of the General Assembly, disclose the total aggregate amount of income tax deductions or credits taken by taxpayers, regardless of how few taxpayers took the deduction or credit, or any other circumstances.

The effective date of this bill is not specified.

6. Budget amendment necessary: No.

7. No Fiscal Impact (See Line 8.)

8. Fiscal implications:

Administrative Costs

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

Revenue Impact

This bill would have no impact on General Fund revenues.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Unless an exception applies, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to law, or any former officer or employee of any of the aforementioned offices may not divulge any information acquired by him in the performance of his 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, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document.

The prohibition on impermissibly divulging tax information or publishing confidential tax documents does not prohibit the publication of statistics as long as the statistics are classified so as to prevent the identification of particular reports or returns and the items thereof. In order to prevent the identification of particular reports or returns and the items thereof, it is the Department's policy not to publish statistics if fewer than four taxpayers claimed the preference in a taxable year. Because of this policy, the Department did not report certain statistics on the following tax credits in the three most recent Annual Reports:

- Biodiesel and Green Diesel Fuels Producers Tax Credit (Fiscal Years 2013 and 2012);
- Community of Opportunity Tax Credit (Fiscal Years 2013, 2012, and 2011);
- International Trade Facility Tax Credit (Fiscal Year 2013);
- Motion Picture Production Tax Credit (Fiscal Year 2012);
- Rent Reductions Tax Credit (Fiscal Years 2012 and 2011);
- Virginia Port Volume Increase Tax Credit (Fiscal Year 2013); and
- Worker Retraining Tax Credit (Fiscal Years 2013 and 2011).

This was also the case in the recent report on the Motion Picture Production Tax Credit, which was issued on October 29, 2013.

Proposed Legislation

This bill would require the Department to, upon request by the General Assembly or any duly constituted committee of the General Assembly, disclose the total aggregate amount of an income tax deduction or credit taken by taxpayers, regardless of how few taxpayers took the deduction or credit, or any other circumstances.

Due to the nature of certain tax preferences, this bill could result in the identification of taxpayers claiming a particular tax credit or deduction. Legislation in other states has raised similar concerns regarding the disclosure of information that could be harmful to taxpayers. For example, legislation was proposed in Illinois to require the publication of confidential tax information related to tax preferences claimed by corporations. However, such information would only be publicly available two years after the close of the

applicable tax year. The intent of this provision is to reduce the relevancy of such information and prevent competitors from gaining an advantage by accessing proprietary information about the companies that claim state tax incentives.

This bill would be limited to information requested by the General Assembly or any committee thereof. However, unlike other individuals who are granted a statutory exception to the general disclosure requirements, there is no provision in the *Code of Virginia* that would expressly prevent members of the General Assembly from disclosing the information obtained under this bill.

The effective date of this bill is not specified.

Similar Bills

House Bill 99 would increase the penalty for impermissibly divulging tax information and for disseminating, publishing, or causing to be published any confidential tax document from a Class 2 misdemeanor to a Class 1 misdemeanor.

House Bill 460 would require the Department to publish specified information on the Motion Picture Production Tax Credit in its report to the General Assembly, regardless of whether such information is classified as to prevent the identification of particular taxpayers, reports, or returns and items.

House Bill 1220 and **SB 623** would require the Department to make certain information regarding the Research and Development Expenses Tax Credit available to the General Assembly upon request, regardless of the number of taxpayers applying for the credit.

cc: Secretary of Finance

Date: 3/5/2014 MTH
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