

DEPARTMENT OF TAXATION

2026 Fiscal Impact Statement

1. **Patron** Karen R. 'Kacey' Carnegie

3. **Committee** House Finance

4. **Title** Individual Income Tax: Innocent Spouse Relief

2. **Bill Number** HB 716

House of Origin:

X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would authorize the Department of Taxation to grant relief to a taxpayer liable for payment of all or part of any unpaid tax, assessment, or other deficiency that is owed due to a mistake made by such taxpayer's spouse on a joint tax return, regardless of whether the taxpayer claimed such relief from the federal government.

If enacted during the regular session of the 2026 General Assembly, the provisions of this bill would become effective July 1, 2026.

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

7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") considers this bill as routine and does not require additional funding.

This legislation does not require significant changes to the Department's systems and is not impacted by the first phase of the Integrated Revenue Management System ("IRMS") replacement project. No resource constraints or implementation considerations are anticipated.

Revenue Impact

This bill would have a minimal unknown negative General Fund revenue impact beginning in Fiscal Year 2027 and each year thereafter.

According to a 2023 report by the U.S. Treasury Inspector General for Tax Administration, the IRS processed 47,892 innocent spouse relief claims between Fiscal Years 2019 and 2021. On average:

- 48% of claims were denied,
- 36% were granted full relief, and
- 13% were granted partial relief.

The report does not specify the dollar amount of relief granted. However, if it is assumed that about 2% of these claims come from Virginia and that approval rates are similar, we can estimate that around 100 claims are approved in Virginia each fiscal year. In addition, many eligible taxpayers may already qualify under existing law for relief on other grounds or for an offer in compromise. Therefore, the Department anticipates that any revenue impact would likely be minimal.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Innocent Spouse Relief

Virginia's conformity to federal law is set forth in Va. Code § 58.1-301, which provides that the terms used in the Virginia income tax statutes will have the same meanings as used in the Internal Revenue Code ("IRC"). As such, Virginia's conformity to federal law is limited to the actual use of a specific term in a Virginia statute. Conformity does not extend to terms, concepts, or principles not specifically provided in Title 58.1 of the Code of Virginia.

Under federal law, a husband and wife are jointly and severally liable for the entire income tax on a joint return. Under IRC § 6015, relief from joint liability is accorded to an innocent spouse in certain circumstances when a spouse intentionally hides income or otherwise falsifies a return.

The Code of Virginia does not contain a provision that includes the term that addresses an "innocent spouse." Accordingly, under current law the Department is not required to follow the federal innocent spouse rules.

Joint Liability

Similar to the IRC, Virginia law provides that a husband and wife who file a joint tax return are liable jointly and individually for their tax liabilities. Joint and several liability means that each party to the return is individually liable for its contents and the entire tax liability arising therefrom and further entails "a joint or several obligation." Therefore, the tax liability may attach to one spouse individually or to both spouses jointly.

Proposal

This bill would authorize the Department of Taxation to grant relief to a taxpayer liable for payment of all or part of any unpaid tax, assessment, or other deficiency that is owed due to a mistake made by such taxpayer's spouse on a joint tax return, regardless of whether the taxpayer claimed such relief from the federal government.

Under the bill, when a taxpayer has been granted innocent spouse relief by the Internal Revenue Service ("IRS") the Department would automatically grant similar relief for any Virginia tax liability related to the federal adjusted gross income that was the subject of the IRS relief. However, in cases where IRS relief was not granted or even requested, such as when the issue relates to Virginia tax credits, additions or subtractions, the Department would have the authority to investigate and grant relief if appropriate.

If enacted during the regular session of the 2026 General Assembly, the provisions of this bill would become effective July 1, 2026.

cc : Secretary of Finance

Date: 01/25/2026 JPJ
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