

DEPARTMENT OF TAXATION

2002 Fiscal Impact Statement

1. **Patron** Howell

3. **Committee** Passed House and Senate

4. **Title** Land Preservation Tax Credit

2. **Bill Number** HB 1322

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would permit a taxpayer that earns Land Preservation Tax Credit to transfer such credit to another corporate or individual income taxpayer. The bill would also provide a subtraction for any gain or income realized by a corporate or individual taxpayer that receives a transfer of the credit to the extent such income is included on the taxpayer's federal income tax return.

This bill is effective for qualified donations made during taxable years beginning on or after January 1, 2002.

6. **Fiscal Impact Estimates are:** Not Available. (See Line 8.)

7. **Budget amendment necessary:** No.

8. **Fiscal implications:**

Administrative Costs

There are costs associated with modifying the system to implement this legislation. The Department of Taxation is currently in the process of replacing its automated systems as part of a partnership with AMS. As a result, the Department of Taxation will be maintaining two systems – the current STARS system and the new IRMS system – for a period of time as a contingency. The contract with AMS generally provides for the costs of implementing routine legislation. However, changes attributable to major legislation are not within the scope of the contract.

The Department of Taxation would incur costs of \$40,120 in Fiscal Year 2002 for changes to its existing system and \$1,776 in Fiscal Year 2003 and thereafter for systems maintenance. Changes to the new IRMS system would be covered under the AMS contract changes. The Department of Taxation would also incur other

administrative costs with respect to this legislation of \$7,500 in FY 2002 for forms development.

Revenue Impact

The impact of this bill on General Fund revenues is unknown. Allowing transfers of this credit could accelerate the revenue impact because a taxpayer who would have to carryover the credit to a future taxable year would be able to transfer the credit to another taxpayer who would claim the full amount of the credit in the year that it is earned or allowed. In addition, this bill may encourage some landowners whose income tax liabilities were previously insufficient to benefit from the credit to donate land and transfer the credit resulting in increased use of the credit.

The income tax subtraction created by this bill would have no impact on General Fund revenue because Virginia currently receives no revenue from the income generated from the transfer of these credits.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: None.

11. Other comments:

Background

Individuals and corporations can claim an income tax credit equal to 50% of the fair market value for donations of real property and interests in real property located in Virginia to governmental and nonprofit organizations whose purpose is to conserve natural resources, save land, and preserve historical sites. The types of property that would qualify for this credit include conservation easements, any partial interest, mineral right, remainder or future interest, or other interest or right in real property as defined under the Internal Revenue Code. Any conveyance of real property under this credit must be permanent and irrevocable.

The maximum credit a taxpayer can claim in any taxable year is limited to the lesser of the total income tax imposed or \$50,000 for the 2000 taxable year, \$75,000 for the 2001 taxable year, and \$100,000 for taxable years thereafter. The amount of credit earned in excess of tax imposed or annual limit can be carried forward to the five succeeding taxable years.

Proposed Legislation

Under this bill, a taxpayer that earns Land Preservation Tax Credit would be allowed to transfer the credit to another corporate or individual taxpayer. The Department of

Taxation would be required to develop and establish a process to allow taxpayers to sell unused amounts of the credit to other individuals and corporations. These purchasing individuals and corporations would be able to use the credit to reduce their Virginia income tax.

The bill would also provide a subtraction for any gain or income realized by a corporate or individual taxpayer that receives a transfer of the credit to the extent such income is included on the taxpayer's federal return.

Virginia Income Tax Credits – Transferability

With limited exceptions, Virginia income tax credits are not transferable from one taxpayer to another. The Coalfield Employment Enhancement Tax Credit contained a provision when it was originally enacted in 1995 that permitted transfers of the credit. However, this transfer feature was repealed in 1996 and was replaced with a feature that made the credit refundable.

Also, legislation enacted in 1997 permitted taxpayers to elect a one time transfer of the Historic Rehabilitation Tax Credit for credits earned for projects certified by Department of Historic Resources prior to the final publication date of the regulations promulgated for the credit.

cc: Secretary of Finance

Date: 03/20/02/CT

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