

# DEPARTMENT OF TAXATION

## 2005 Fiscal Impact Statement

1. **Patron** Linda T. Puller

2. **Bill Number** SB 1186

3. **Committee** Senate Finance

**House of Origin:**

  X   Introduced

       Substitute

       Engrossed

4. **Title** Individual Income Tax: Expansion of \$6,000  
Age Deduction

**Second House:**

       In Committee

       Substitute

       Enrolled

### 5. Summary/Purpose:

This bill would restore the \$6,000 age deduction to taxpayers who turn age 62 during calendar year 2004 for taxable years 2005 and 2006.

This bill is effective for taxable years beginning January 1, 2005 but before January 1, 2007.

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

#### 6a. Expenditure Impact:

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Fund</b></i>
2004-05	\$0	GF
2005-06	\$165,575	GF
2006-07	\$0	GF
2007-08	\$0	GF
2008-09	\$0	GF
2009-10	\$0	GF
2010-11	\$0	GF

#### 6b. Revenue Impact:

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Fund</b></i>
2004-05	\$0	GF
2005-06	(\$18.85 million)	GF
2006-07	(\$6.26 million)	GF
2007-08	\$0	GF
2008-09	\$0	GF
2009-10	\$0	GF
2010-11	\$0	GF

### 7. Budget amendment necessary: Yes.

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## **8. Fiscal implications:**

This bill would create a negative revenue impact of \$18.85 million for FY 2006 and \$6.26 million for FY 2007.

The Department of Taxation is in the final stages of preparing for an August changeover to an entirely new system developed over many years through a public-private partnership. Legislative changes that become effective before the new system is in place must be made to both the old and new systems. However, the Department must “freeze” both systems for several months while its existing records and other data are converted to the new system, and will not be able to resume system modifications until the new system is stable. This freeze is required both by the physical requirements of a major system upgrade and the fact that all personnel capable of modifying either system will be fully committed to the changeover.

The Department would incur administrative costs of \$165,575 for FY 2006 to implement this bill, including necessary systems changes. The Department believes that there will be sufficient time available to make the necessary systems changes required by this bill without affecting the system changeover. However, if numerous changes must be implemented within the same time frame the Department may not be able to accomplish all of the modifications without additional resources or the ability to delay the effective date of some of the changes.

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

Department of Taxation

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

In order to prevent taxpayers from being eligible for both the \$12,000 and \$6,000 age deductions, the following technical amendment is suggested:

Page 4, Line 208 after January  
Strike: 1  
Insert: 2

## **11. Other comments:**

### General

The age deduction was modified during the 2004 General Assembly Session in several ways. First, the \$6,000 age deduction is eliminated for taxable year 2004, but individuals who were age 62 or 63 in 2003 will continue to receive the \$6,000 age deduction until they qualify for the \$12,000 age deduction at age 65.

The \$12,000 age deduction will now be subjected to a reduction based on income. However, individuals who were at least age 65 in 2003 will continue to receive the full \$12,000 age deduction without reduction.

For taxpayers who attained age 65 in 2004 and after, the \$12,000 age deduction will be reduced by \$1 for each \$1 of adjusted federal adjusted gross income above \$50,000. Married individuals will reduce their \$12,000 income-related age deduction by \$1 for every \$1 of their total combined adjusted federal adjusted gross income above \$75,000. For married taxpayers filing separately, the \$12,000 income-related age deduction will be reduced by \$1 for every \$1 that the total combined adjusted federal adjusted gross income of both spouses exceeds \$75,000. The reductions for married taxpayers apply as described even if only one of the married taxpayers is eligible for the \$12,000 deduction.

“Adjusted federal adjusted gross income,” means federal adjusted gross income minus any benefits received under Title II of the Social Security Act and other benefits subject to federal taxation solely under IRC § 86.

#### Coordination of Attained Age and Birth Dates

Under federal tax regulation 26 C.F.R. § 1.151-1(c)(2), which governs the age of an individual for the purposes of the federal exemption for old age, an individual attains the age of 65 on the first moment of the day preceding the sixty-fifth birthday. Thus, if an individual celebrates his birthday on January 1 of a given year, that individual attains the age of 65 on December 31 of the calendar year immediately preceding that year.

Virginia has followed this rule in applying age restrictions for the age deduction. For example, an individual whose 65<sup>th</sup> birthday is on January 1, 2005 is eligible to take the \$12,000 age deduction for taxable year 2004, even though on December 31, 2004, the individual has not celebrated his 65<sup>th</sup> birthday. Therefore, the existing age deduction provisions are reflected as follows:

<u>Taxable Year</u>	<u>Attained Age</u>	<u>Birth dates on and between</u>	<u>Age Deduction</u>
2004	66 and over	on or before 1/1/39	\$12,000
	65	1/2/39 – 1/1/40	\$12,000 income-based
	63-64	1/2/40 – 1/1/42	\$6,000
2005	67 and over	on or before 1/1/39	\$12,000
	65 - 66	1/2/39 – 1/1/41	\$12,000 income-based
	64	1/2/41 – 1/1/42	\$6,000
2006	67 and over	on or before 1/1/39	\$12,000
	65 – 67	1/2/39 – 1/1/42	\$12,000 income based

#### Proposal

This bill would grant a \$6,000 age deduction in taxable years 2005 and 2006 to most taxpayers who attained age 62 during 2004. They would not receive the age deduction in 2004. Individuals born on January 1, 1943, will attain the age of 62 on December 31, 2004, under federal tax regulations and Virginia policy. However, these individuals will not be entitled to the \$6,000 age deduction in 2005 and 2006 under this bill.

## Technical Amendments

The bill as drafted would allow an individual born on January 1, 1942, to claim two age subtractions in 2006: the \$12,000 income based age deduction under existing law and the \$6,000 age deduction under the proposal. A technical amendment is suggested to prevent a double deduction.

## Other Legislation

**House Bill 1533** would remove the income-based test for the age deduction and restore the full \$6,000 deduction for seniors age 62 to 64 and \$12,000 deduction for seniors age 65 and above, but disallow the deduction for taxpayers with Virginia adjustable gross incomes exceeding \$150,000 for individuals and \$250,000 for taxpayers filing joint returns.

**House Bill 1935** would remove the income-based reductions in the age deduction and link the \$6,000 and \$12,000 age deductions to the Consumer Price Index for All Urban Consumers (CPI-U).

**House Bill 2706** is identical to this bill.

cc : Secretary of Finance

Date: 1/20/2005 AMS  
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