

SENATE JOINT RESOLUTION NO. 101

Establishing a joint subcommittee to study the benefits of adopting a single sales factor to apportion the income of multistate corporations for purposes of the corporation income tax. Report.

Agreed to by the Senate, March 6, 2008

Agreed to by the House of Delegates, March 5, 2008

WHEREAS, the Virginia corporation income tax of a multistate corporation is currently apportioned based on a three-factor formula (the value of Virginia property over total property counting for one-quarter of the formula, the value of Virginia payroll over total payroll counting for another quarter of the formula, and sales in Virginia over total sales counting for one-half of the formula); and

WHEREAS, approximately 15 states have shifted to a single factor apportionment formula based on sales in the state over total sales, either for all corporations or corporations in selected industries; and

WHEREAS, approximately five states are considering or have recently passed legislation to increase the weight of the sales factor used in their respective apportionment formulas, either for all corporations or corporations in selected industries; and

WHEREAS, the single sales factor has been used as an economic development tool in the states that have adopted it and could aid in Virginia's economic development efforts, particularly in economically depressed areas of the Commonwealth; and

WHEREAS, some economic development projects have already been lost to other states that have implemented a single sales factor; and

WHEREAS, the national trend is clearly toward the implementation of a single sales factor and away from the once-traditional three-factor apportionment formula currently used by Virginia, which over future years will provide an increasing disincentive for business investment in the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That a joint subcommittee be established to study the benefits of adopting a single sales factor to apportion the income of multistate corporations for purposes of the corporation income tax. The study shall include the fiscal and economic impact of replacing Virginia's corporate multistate tax three-factor apportionment formula with a single sales factor formula. Such study shall not be limited exclusively to the single sales factor issue, but may include other relevant topics of corporation income tax policy that may be impacted by a shift to a single sales factor, including, but not limited to, the use of cost of performance for determining the apportionment of service-based revenues, the income of financial corporations, and the institution of an optional single sales factor program exclusively available to specific industries identified in the Commonwealth's economic development strategic plan.

The joint subcommittee shall have a total membership of 12 members that shall consist of eight legislative members, three nonlegislative citizen members, and one ex officio member. Members shall be appointed as follows: three members of the Senate to be appointed by the Senate Committee on Rules; five members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; one nonlegislative citizen member who shall represent the Virginia Manufacturers Association, to be appointed by the Senate Committee on Rules; and two nonlegislative citizen members, one of whom shall represent the Virginia Economic Development Partnership, and one of whom shall represent the Virginia Chamber of Commerce, to be appointed by the Speaker of the House of Delegates. The Commissioner of the Department of Taxation or her designee shall serve ex officio with voting privileges.

Nonlegislative citizen members of the joint subcommittee shall be citizens of the Commonwealth of Virginia. Unless otherwise approved in writing by the chairman of the joint subcommittee and the respective Clerk, nonlegislative citizen members shall only be reimbursed for travel originating and ending within the Commonwealth of Virginia for the purpose of attending meetings. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required. The joint subcommittee shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

Administrative staff support shall be provided by the Office of the Clerk of the Senate. Legal, research, policy analysis, and other services as requested by the joint subcommittee shall be provided by the Division of Legislative Services. Technical assistance shall be provided by the Department of Taxation. All agencies of the Commonwealth shall provide assistance to the joint subcommittee for this study, upon request.

The joint subcommittee shall be limited to four meetings for the 2008 interim, and the direct costs of

this study shall not exceed \$9,200 without approval as set out in this resolution. Approval for unbudgeted nonmember-related expenses shall require the written authorization of the chairman of the joint subcommittee and the respective Clerk. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required.

No recommendation of the joint subcommittee shall be adopted if a majority of the Senate members or a majority of the House members appointed to the joint subcommittee (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the joint subcommittee.

The joint subcommittee shall complete its meetings by November 30, 2008, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2009 Regular Session of the General Assembly. The executive summary shall state whether the joint subcommittee intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and the report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or delay the period for the conduct of the study, or authorize additional meetings during the 2008 interim.