DEPARTMENT OF TAXATION
2008 Fiscal Impact Statement

1. Patron Clarence E. Phillips

2. Bill Number HB 1151

House of Origin:
- X **Introduced**
- ___ **Substitute**
- ___ **Engrossed**

Second House:
- ___ **In Committee**
- ___ **Substitute**
- ___ **Enrolled**

3. Committee House Finance

4. Title Corporate Income Tax and Sales and Use Tax; Tax Preferences for Spaceflight Entities

5. Summary/Purpose:

This bill would create two new corporate income tax subtractions. The first would be for the gain recognized as a result of the sale of passenger tickets on a suborbital spaceflight conducted by a spaceflight entity. The second subtraction would be for the gain recognized as a result of resupply services contracts entered with the Commercial Orbital Transportation Services ("COTS") division of the National Aeronautics and Space Administration ("NASA").

In addition, this bill would extend from June 30, 2011 to June 30, 2015 the sunset date of the retail sales and use tax exemption for the sale, lease, use, storage, consumption, or distribution of space facilities, space propulsions systems, satellites, space vehicles, space stations, and related items used to conduct "spaceport activities." This bill would also expand the exemption to include the sale of spaceflight services or activities to spaceflight participants.

The income tax portion of this bill would be effective for taxable years beginning on and after January 1, 2008. The sales tax portion would be effective on July 1, 2008.

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

7. Budget amendment necessary: No.

8. Fiscal implications:

<u>Administrative Costs</u>

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as "routine," and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not "routine." Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

Revenue Impact

The revenue impact associated with the corporate income tax provisions of this bill is unknown, but likely to be minimal. At this time, only a small number of companies plan to offer commercial suborbital spaceflights, but none have taken place yet. Furthermore, at this time no company appears to be planning to offer such services from a Virginia airport or spaceport. In addition, only two companies, neither of which appears to have nexus with Virginia, have signed contracts with the COTS division of NASA. NASA has not announced any further contracts through COTS.

The sales tax portion of this bill will have no revenue impact. The official revenue forecasts assume the extension of any retail sales and use tax exemption. In addition, the language that extends the current retail sales and use tax exemption to services will have no impact, as these services are already exempt from the retail sales and use tax.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

This bill would create two new corporate income tax subtractions. The first would be for the gain recognized as a result of the sale of passenger tickets on a suborbital spaceflight conducted by a spaceflight entity. The second subtraction would be for the gain recognized as a result of resupply services contracts entered with the Commercial Orbital Transportation Services ("COTS") division of the National Aeronautics and Space Administration ("NASA").

In addition, this bill would extend from June 30, 2011 to June 30, 2015 the sunset date of the retail sales and use tax exemption for the sale, lease, use, storage, consumption, or distribution of space facilities, space propulsions systems, satellites, space vehicles, space stations, and related items used to conduct "spaceport activities."

This bill would also provide an explicit statutory exemption for the sale of spaceflight services or activities to spaceflight participants. Under current law, the retail sales and use tax is a tax imposed upon the sale of tangible personal property, and does not apply to the sale of most services. The limited list of services that are subject to the retail sales and use tax are expressly identified in the *Code of Virginia*, and include: 1) services included in or in connection with the sale of tangible personal property; 2) fabrication of property for consumers who furnish the materials; 3) provision of meals consumed on the premises; and 4) lodging for less than 90 days. Because under current Virginia law spaceflight services or activities would not be subject to the retail sales and use tax, this provision exempting such services has no effect.

“Space flight entity" would mean any public or private entity holding, either directly or through a corporate subsidiary or parent, a license, permit, or other authorization issued by the United States Federal Aviation Administration pursuant to the Federal Space Launch Amendments Act (49 U.S.C. § 70101 et seq.), including, but not limited to, a safety approval and a payload determination. "Space flight entity" shall also include any manufacturer or supplier of components, services, or vehicles that have been reviewed by the United States Federal Aviation Administration as part of issuing such a license, permit, or authorization.

“Space flight participant” would be given the same meaning as in 49 U.S.C. § 70102, which is an individual, who is not crew, carried within a launch vehicle or reentry vehicle.

Please note that the section that provides the definitions for these terms, *Va. Code* § 8.01-227.8, expires on July 1, 2013.

The income tax portion of this bill would be effective for taxable years beginning on and after January 1, 2008. The sales tax portion would be effective on July 1, 2008.

Similar Legislation

House Bill 170 is identical to this bill.

House Bill 238, House Bill 351, House Bill 874, Senate Bill 286, and Senate Bill 401 would create two new subtractions for individual and corporate income taxpayers. The first would be for the gain from the sale of launch services to space flight participants or launch services intended to provide individuals the training or experience of a launch, without performing an actual launch. The second subtraction would be for the gain recognized as a result of resupply services contracts for delivering payload entered into with the COTS division of NASA or other space flight entity.

cc : Secretary of Finance

Date: 1/13/2008 AMS
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