

# DEPARTMENT OF TAXATION

## 2008 Fiscal Impact Statement

1. **Patron** Harry R. Purkey

3. **Committee** House Finance

4. **Title** Intangible Personal Property; Classification  
of Certain Items

2. **Bill Number** HB 911

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

**5. Summary/Purpose:**

This bill would create a classification of intangible personal property for idle equipment, hardware or software, of a research and development, technology, high technology, or nanotechnology business.

The effective date of this bill is not specified.

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

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

**8. Fiscal implications:**

Administrative Costs

As the role of TAX would be limited to issuing advisory opinions, TAX would incur minimal costs implementing this bill.

Revenue Impact

This bill would have no impact on state revenues. The revenue impact on localities is unknown. To the extent that this bill allows idle equipment, hardware and software, of a research and development, technology, high technology, or nanotechnology business to be exempted from the tangible personal property tax, this bill would decrease local revenues.

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

All localities

**10. Technical amendment necessary:** No.

## 11. Other comments:

### Intangible Personal Property

Under current law, intangible personal property is a separate class of property segregated for taxation by the Commonwealth. The Commonwealth does not currently tax intangible personal property. Localities are prohibited from taxing intangible personal property. Certain personal property, while tangible in fact, has been designated as intangible and thus exempted from state and local taxation. For example, tangible personal property used in manufacturing, mining, water well drilling, radio or television broadcasting, dairy, dry cleaning or laundry businesses has been designated as exempt intangible personal property.

In the case of a manufacturing business, all personal property except machinery and tools, motor vehicles and delivery equipment used in the manufacturing business are considered to be intangible personal property. Additionally, idled machinery and tools are generally considered intangible personal property because they are not used in the manufacturing business.

### Proposal

This bill would create a separate classification of intangible personal property, while tangible in fact, for idle equipment, hardware or software, of a research and development, technology, high technology, or nanotechnology business. Equipment, hardware or software, would be idle if it:

- Has been discontinued in use continuously for at least one year prior to tax day, and there is no reasonable prospect that such equipment, hardware and software, will be returned to use during the tax year, or
- On and after January 1, 2008, has been specifically identified in writing by the taxpayer to the commissioner of revenue or other assessing official, on or before April 1 of such year, as equipment, hardware or software, that the taxpayer intends to withdraw from service not later than the next succeeding tax day, and there is no reasonable prospect that such equipment, hardware and software, will be returned to use during the tax year.

Under this bill, a taxpayer that has equipment, hardware or software classified as idle because the taxpayer intended to withdraw it from service is required to notify the commissioner of the revenue in writing on or before the next return due date without extension if the equipment, hardware or software is returned to use. Such equipment, hardware or software are then subject to tax in accordance with the procedures provided in *Va. Code* § 58.1-3903 in the same manner as if they had been in use on tax day of the year that the return to use occurs. Any interest otherwise payable pursuant to applicable law or ordinance shall apply to such taxes paid after the due date, without regard to the fault of the taxpayer or lack thereof. Notwithstanding the provisions of *Va. Code* § 58.1-3903, if the taxpayer has provided timely written notice of return to use, no penalty shall

be levied with respect to any tax liability arising as a result of the return to use of machinery and tools classified as idle and actually idle prior to such return to use.

### Similar Legislation

**House Bill 124** would reclassify all machinery and tools used in manufacturing, mining, water well drilling, processing or reprocessing placed in service on or after January 1, 2010, except those used by farm wineries, as intangible personal property exempt from state and local taxation. This bill would also exempt from state and local taxation all certified pollution control equipment and facilities placed in service on or after January 1, 2010.

cc : Secretary of Finance

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