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SENATE JOINT RESOLUTION NO. 324

Offered January 14, 2009

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Establishing a joint committee of the Senate Committee on Finance and the House Committee on Finance to study the benefits and fiscal impact of adopting a market-based tax assessment process of multistate service corporations for purposes of Virginia's corporate income tax.

Patron—Howell

Referred to Committee on Rules

WHEREAS, Virginia's corporate income tax on multistate service corporations is assessed using a cost of performance (COP) formula by which taxes are assessed by determining the percentage of income-producing activity that is performed in the state; and

WHEREAS, several states, including Maryland, have changed to a market-based assessment for service corporations by which taxes are assessed by determining the share of a corporation's total sales in each state where they conduct business; and

WHEREAS, the differing tax assessment methods often create an unfair tax burden on businesses whereby service corporations with a significant presence in a state may be required to pay tax in multiple states, resulting in the taxation of more than 100 percent of the corporation's federal taxable income; and

WHEREAS, this situation will become more problematic as additional states change to the market-based assessment process; and

WHEREAS, changing to the market-based assessment process would help those service corporations currently in Virginia and may attract new such businesses to Virginia; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That a joint committee comprised of two members of the Senate Committee on Finance appointed by the Chairman of that committee and four members of the House Committee on Finance appointed by the Chairman of that committee be established to study the pros and cons and the fiscal impact of adopting a market-based tax assessment process of multistate service corporations for purposes of Virginia's corporate income tax. The joint committee shall elect a chairman and vice chairman from among its membership.

In conducting its study, the joint committee shall (i) examine Virginia's current method for assessing corporate income tax on service corporations, (ii) examine other state's methods for assessing corporate income tax on service corporations, particularly those surrounding Virginia as well as those similar in size and demographics, and (iii) weigh the positive and the negative aspects of changing from the COP formula to the market-based formula for assessing income tax on service corporations in Virginia.

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 committee shall be provided by the Division of Legislative Services. Technical assistance shall be provided by the Department of Taxation and the Virginia Economic Development Partnership. All agencies of the Commonwealth shall provide assistance to the joint committee for this study, upon request.

The joint committee shall be limited to four meetings for the 2009 interim. Approval for unbudgeted nonmember-related expenses shall require the written authorization of the chairman of the joint committee 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 committee shall be adopted if a majority of the Senate members or a majority of the House members of the joint committee (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the joint committee.

The joint committee shall complete its meetings by November 30, 2009, and the chairman shall submit an executive summary of its findings and recommendations no later than the first day of the 2010 Regular Session of the General Assembly to the Division of Legislative Automated Systems. The executive summary shall state whether the joint committee 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 2009 interim.

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