

**DEPARTMENT OF TAXATION
2011 Fiscal Impact Statement**

1. **Patron** Walter A. Stosch

2. **Bill Number** SB 1130

House of Origin:

Introduced

Substitute

Engrossed

3. **Committee** Passed by House and Senate

4. **Title** Taxes; Removes Obsolete Language in Tax Code

Second House:

In Committee

Substitute

Enrolled

5. Summary/Purpose:

This bill would remove several obsolete provisions and make several other technical changes to Virginia's Tax Code pertaining to individual and corporate income taxes, estimated taxes, sales and use taxes, and property taxes.

The provisions of this bill would be effective for taxable periods beginning on or after January 1, 2011.

6. **Budget amendment necessary:** No.

7. **No Fiscal Impact.** (See Line 8.)

8. Fiscal implications:

This bill would have no impact on state or local revenues.

9. Specific agency or political subdivisions affected:

TAX

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

11. Other comments:

This bill would remove several obsolete provisions and make several other technical changes to Virginia's Tax Code pertaining to individual and corporate income taxes, estimated taxes, sales and use taxes, and property taxes.

Individual and Corporate income Tax

- *Operation Joint Endeavor*: Current law provides a subtraction for military pay earned in the former Yugoslavia during Operation Joint Endeavor, which ended in December 1996. Thus, this provision is obsolete.
- *Tobacco Loss Assistance Program*: Current law provides that income received as a result of the Tobacco Loss Assistance Program must be subtracted from income for purposes of the Individual Income Tax and the Corporate Income Tax. The program was repealed by the Fair and Equitable Tobacco Reform Act of 2004, Title VI of the American Jobs Creation Act of 2004 (P.L. 108-357) on October 22, 2004. Thus, the provision is obsolete.
- *Peanut Quota Buyout Program*: When Congress ended the price supports and quota program for peanut growers it provided for payments to peanut quota holders between 2002 and 2007. The program has expired and the Virginia subtraction is obsolete.
- *Avian Influenza Indemnity Payments*: The U.S. Department of Agriculture provides indemnity payments when it requires that poultry be destroyed because it has contracted avian influenza. In response to a major outbreak of Avian Influenza in Virginia in 2002 the General Assembly enacted a subtraction for such payments for taxable years 2002 through 2004. The subtraction has expired.
- *Individual Standard Deduction*: Reference to the amount of the standard deduction before its 2005 increase is deleted as obsolete.
- *Individual Age Deduction*: References to the amount of the age deduction available as revisions were phased in for taxable years 2004 and 2005 are deleted as obsolete.
- *Employee Stock Ownership Programs*: In the past, the Internal Revenue Code ("IRC") allowed corporations a credit for certain contributions to an employee stock ownership plan ("ESOP"). Unused credits could be carried forward or claimed as a deduction under IRC § 404(i). Because the deduction related to a federal tax credit, Virginia law required corporations to add back any deduction claimed under IRC § 404(i). The Tax Reform Act of 1986 repealed both the ESOP credit and IRC § 404(i). Therefore the Virginia provision is obsolete.
- *Cogenerators*: In 1988 an income tax credit for cogenerators who used coal was enacted that was similar to a credit available to electric utilities that used coal. In 1999 legislation was enacted that subjected electric utilities to the income tax instead of the public service tax on gross receipts. As part of that legislation the utility coal credit was included in the income tax chapter, but a provision was included to prevent cogenerators from taking both the cogenerator credit and the utility credit on the same ton of coal. The cogenerator credit (§ 58.1-433) expired in 2001, so the provision is now obsolete.
- *Rent Reductions*: The individual income tax credit for rent reductions expired in 1999. It has been replaced by another rent reduction credit in § 58.1-339.9.

Coalfield Employment Enhancement Tax Credit

- *Cogenerators:* In 1988 an income tax credit for cogenerators who used coal was enacted that was similar to a credit available to electric utilities that used coal. In 1999 legislation was enacted that subjected electric utilities to the income tax instead of the public service tax on gross receipts. As part of that legislation the utility coal credit was included in the income tax chapter, but a provision was included to prevent cogenerators from taking both the cogenerator credit and the utility credit on the same ton of coal. The cogenerator credit (§ 58.1-433) expired in 2001, so the provision is now obsolete.
- *Credit schedule:* For the first four years, the credit earned in one year was claimed in two different taxable years as specified in a schedule. The last year specified in that schedule was 2008, so this part of the schedule is now obsolete. For credits earned after the first four years the credit was claimed three years later, although this was spelled out in a schedule for each year. The year-by-year schedule is replaced with language specifying that it is claimed in the third taxable year after the credit is earned.

Estimated Tax

- In 1972, the definition of income for estimated tax allowed consideration of any credits. In 1987, it was changed to list three credits, which were the only credits in the code at that time. As more credits were added over the years, the list was never changed.

Retail Sales and Use Tax

- *Reference to Baptistries:* In 2003, the Retail Sales and Use Tax Code was restructured as part of the changes in the process by which nonprofit organizations obtained sales and use tax exemptions. As a result, several exemptions were moved from *Va. Code* § 58.1-609.8 to *Va. Code* § 58.1-609.10. Thus, the cross references in the sales tax code relating to the baptistries exemption that was once set forth in *Va. Code* § 58.1-609.8 are technically incorrect.

Real Property Tax

- *Annual General Reassessments of Real Estate:* A provision in the Real Property Tax Code addressing annual general reassessment of real estate and equalization of assessments has been amended from time to time and remains in effect. This section was last amended in 2003 (*Acts of Assembly 2003*, Chapter 1036). As the statute does not reflect this most recent amendment, it is technically incorrect.
- *List of Delinquent Town Real Estate Taxes:* This provision cross references *Va. Code* § 58.1-3937. As that section was repealed in 1998, this cross reference is obsolete.

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