DEPARTMENT OF TAXATION
2012 Fiscal Impact Statement

1. Patron Benjamin L. Cline

2. Bill Number HB 248

House of Origin:
X **Introduced**
_____ **Substitute**
_____ **Engrossed**

Second House:
_____ **In Committee**
_____ **Substitute**
_____ **Enrolled**

3. Committee House Finance

4. Title Corporate income tax; eliminates Virginia's corporate income tax

5. Summary/Purpose:

This bill would eliminate the Virginia corporate income tax.

This bill would be effective for taxable years beginning on and after January 1, 2013.

6. Budget amendment necessary: Yes.
ITEM: Page 1, Revenue Estimates
273, Department of Taxation, Revenue Administration Services

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

7a. Expenditure Impact:

Fiscal Year	*Dollars*	*Positions*	*Fund*
2011-12	$0	0	GF
2012-13	$0	0	GF
2013-14	($73,764)	0	GF
2014-15	($73,764)	0	GF
2015-16	$0	0	GF
2016-17	$0	0	GF
2017-18	$0	0	GF

7b. Revenue Impact:

Fiscal Year	*Dollars*	*Fund*
2011-12	$0	GF
2012-13	($521.6 million)	GF
2013-14	($1,281.5 million)	GF
2014-15	($966.2 million)	GF
2015-16	($974.7 million)	GF
2016-17	($928.6 million)	GF
2017-18	($940.5 million)	GF

8. Fiscal implications:

Administrative Costs

This bill would create annual cost savings of $73,764 in FY 2014 and FY 2015 for the Department by reducing the amount of funding needed for data collection, systems maintenance and error resolution. There would be no cost savings in subsequent years because the corporate e-file program is expected to eliminate these costs beginning in FY 2016.

Revenue Impact

This bill would significantly reduce General Fund revenues by $521.6 million in FY 2013, $1,281.5 million in FY 2014, $966.2 million in FY 2015, $974.7 million in FY 2016, $928.6 million in FY 2017, and $940.5 million in FY 2018. There would be a smaller impact in FY 2013 due to corporations ceasing to make estimated tax payments for the 2013 taxable year in April and June of 2013. Corporations would continue to make extension and tax payments, as well as receive refunds, for prior taxable years.

The Department would continue to receive compliance revenue from audit and collection activity and processing amended returns related to prior years. However, it is estimated that the revenue would be reduced in FY 2016 and effectively cease in FY 2017. Based on historical collections, there would be a loss of $30 million in FY 2014 and annual losses of $60 million in FY 2015 and 2016. These amounts are included in the revenue figures above.

9. Specific agency or political subdivisions affected:

Department of Taxation
State Corporation Commission

10. Technical amendment necessary: Yes.

Line 12, after "§§ 58.1-432 through"
Delete: 58.1-439.12:10
Insert: 58.1-439.11

Additionally, this bill would delete Article 13 of Chapter 3 of Title 58.1 in its entirety. Certain sections in Article 13 include provisions for tax credits that apply to individuals, trusts, estates, banks subject to the bank franchise tax, and companies subject to the insurance premiums tax, in addition to corporations. Repealing the entire article would result in the repeal of these credits not only for corporations, but also for individuals, trusts, and estates, as well as taxpayers subject to the bank franchise tax and the insurance premiums tax.

Credits in Article 13 that currently apply to both corporations and other taxpayers include:

- The low-income housing credit (*Va. Code* § 58.1-435);
- The tax credit for vehicle emissions testing equipment, clean-fuel vehicles and certain refueling property (*Va. Code* § 58.1-438.1);
- The major business facility job tax credit (*Va. Code* § 58.1-439);
- The coalfield employment enhancement tax credit (*Va. Code* § 58.1-439.2);
- The day-care facility investment tax credit (*Va. Code* § 58.1-439.4);
- The worker retraining tax credit (*Va. Code* § 58.1-439.6);
- The tax credit for purchase of machinery and equipment for processing recyclable materials (*Va. Code* § 58.1-439.7);
- The tax credit for certain employers hiring recipients of Temporary Assistance to Needy Families (*Va. Code* § 58.1-439.9);
- The tax credit for purchase of waste motor oil burning equipment (*Va. Code* § 58.1-439.10); and
- The employees with disabilities tax credit (*Va. Code* § 58.1-439.11).

The Department assumes it is not the intent of this bill to repeal credits that apply to taxpayers other than corporations. Accordingly, the Department suggests that a substitute bill be drafted that would not repeal the sections relating to tax credits that could be claimed against individual, trust and estate, bank franchise tax, or insurance premiums taxes, but would instead delete any references to the corporate income tax in these sections.

11. Other comments:

<u>Virginia Corporate Income Tax</u>

The corporate income tax is imposed at the rate of six percent on the Virginia taxable income of domestic and foreign corporations doing business in Virginia. A "corporation" is any entity created as a corporation under the laws of any state or local domestic or foreign jurisdiction, and any association, joint stock company, or any other entity subject to corporate income tax under the Internal Revenue Code. Approximately 71,000 corporations file Virginia income tax returns.

The corporate income tax is a major revenue source for Virginia. According to the Annual Report for Fiscal Year 2011, the corporate income tax produced $822 million in revenue, which is the third highest amount of revenue behind the individual income tax and the state sales and use tax. However, corporate income tax revenue fluctuates significantly with the economic conditions. See the chart below for details about the amount of corporate income tax revenues collected annually.

Corporate Income Tax Revenue (1999-2011)

Fiscal Year	Amount
1999	$420,421,456
2000	565,909,181
2001	363,757,398
2002	290,215,035
2003	343,318,607
2004	425,715,754
2005	616,690,263
2006	867,115,786
2007	879,575,371
2008	807,851,584
2009	648,032,537
2010	806,472,760
2011	822,258,803

There are other business entities that are not subject to corporate income tax. Banks and trust companies are subject to a bank franchise tax, and insurance companies are subject to a premiums tax. Businesses organized as pass-through entities, such as partnerships, LLPs, LLCs, etc., are not taxed at the entity level, but their members are typically subject to the individual income tax. Individuals who operate businesses as sole proprietorships also are subject to the individual income tax. For Taxable Year 2009, more than 179,000 pass-through entity returns were filed, as compared to fewer than 69,000 corporate income tax returns. Additionally, many businesses file individual returns as sole proprietorships. For example, according to IRS data, 578,234 individual income tax returns were filed in Virginia for Taxable Year 2007 by owners of sole proprietorships. This number includes a broad range of businesses, from people selling products part-time, to tradesmen (plumbers, electricians, carpenters, etc.) running a full-time business.

Other States

Currently, the only states that do not impose a corporate income tax are Nevada, South Dakota, Washington, and Wyoming.

Proposed Legislation

This bill would eliminate the Virginia corporate income tax. It would also eliminate the minimum taxes on telecommunications companies and electric suppliers.

This bill would be effective for taxable years beginning on and after January 1, 2013.

cc : Secretary of Finance

Date: 1/21/2012 KLC
HB248F161