

DEPARTMENT OF TAXATION

2012 Fiscal Impact Statement

1. **Patron** Mark D. Sickles

2. **Bill Number** HB 879

3. **Committee** Senate Finance

House of Origin:

☐ Introduced

☐ Substitute

☐ Engrossed

4. **Title** Income Tax: Subtraction for Certain Death Benefits

Second House:

☒ In Committee

☐ Substitute

☐ Enrolled

5. **Summary/Purpose:**

As amended, this bill would clarify that a subtraction for death benefit payments from an annuity contract is allowed, provided that (i) the death benefit payment is made pursuant to an annuity contract with an insurance company; (ii) the death benefit payment is paid to the annuitant in a lump sum, and (iii) the death benefit payment is included in federal adjusted gross income.

The effective date of this bill is not specified.

The Department of Taxation (the "Department") understands that an amendment will be introduced to clarify that the subtraction is allowed to the owner of an annuity. This fiscal impact statement is based on that amendment.

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

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

8. **Fiscal implications:**

Administrative Costs

The Department considers implementation of this bill as routine and is not requesting additional funding.

Revenue Impact

This bill would have no revenue impact because it codifies the Department's interpretation of existing law.

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

Department of Taxation

10. Technical amendment necessary: Yes.

The Department understands that an annuity may be purchased for someone other than the purchaser of the annuity. Therefore, in order for the subtraction to apply to the owner of the annuity the following technical amendment is suggested:

Page 3, Line 151, at the beginning of the line

Strike: between an annuitant and

Insert: with

11. Other comments:

Background

In 2006, legislation was enacted that created a subtraction for death benefit payments received from an annuity contract that are subject to federal income taxation. It is has been the Department's understanding that the intent of this law was to equalize the tax treatment of death benefits for those who cannot obtain life insurance because they are uninsurable for health reasons. Life insurance benefit payments paid by reason of the death of the insured are exempt from federal taxation, and thus exempt from Virginia taxation, while a portion of the death benefits from an annuity contract are taxable. Thus, those who cannot obtain standard life insurance and so must utilize annuities to provide a similar benefit to their loved ones, are treated dissimilarly for tax purposes. It was on this basis that the death benefits subtraction for annuity contracts was created in 2006 (2006 *Acts of Assembly*, Chapter 617, House Bill 1535).

Proposal

As amended, this bill would clarify that a subtraction for death benefit payments from an annuity contract is allowed, provided that (i) the death benefit payment is made pursuant to an annuity contract with an insurance company; (ii) the death benefit payment is paid to the annuitant in a lump sum, and (iii) the death benefit payment is included in federal adjusted gross income. The bill would codify, in part, the Department's interpretation that was published in P.D. 09-36 (3/31/2009).

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 2/19/2012 tlg
HB879FE161