

DEPARTMENT OF TAXATION

2013 Fiscal Impact Statement

1. **Patron** Walter A. Stosch

2. **Bill Number** SB 1241

3. **Committee** Passed House and Senate

House of Origin:

☐ Introduced

☐ Substitute

☐ Engrossed

4. **Title** Income Tax: Conformity to the Internal Revenue Code

Second House:

☐ In Committee

☐ Substitute

☒ Enrolled

5. **Summary/Purpose:**

This bill would advance Virginia's date of conformity to the Internal Revenue Code (IRC) from December 31, 2011 to January 2, 2013.

Virginia would continue to disallow:

- Any bonus depreciation allowed for certain assets under federal income taxation and any five year carry-back of NOLs allowed for NOLs generated in either Taxable Year 2008 or 2009;
- Deductions for applicable high yield discount obligations under IRC § 163(e)(5)(f); and
- Tax exclusions under IRC § 108(i) related to cancellation of debt income realized in connection with a reacquisition of business debt at a discount after December 31, 2008, and before January 1, 2011.

Virginia would conform to a 2010 federal law that temporarily increased the federal earned income tax credit (EITC) for Taxable Year 2012.

This bill would allow Virginia to conform to the American Taxpayer Relief Act of 2012.

Because some taxpayers will be preparing their Virginia returns while the General Assembly is in session, **this bill contains an emergency clause** which states that it would be in force from its passage.

This is an Executive bill.

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

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

7b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2012-13	\$0	GF
2013-14	\$0	GF
2014-15	\$13.3 million	GF
2015-16	\$15.1 million	GF
2016-17	\$17.1 million	GF
2017-18	\$19.2 million	GF
2018-19	\$20.9 million	GF

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 increase General Fund revenue by \$200,000 in Fiscal Year 2013, \$14.1 million in Fiscal Year 2014, \$13.3 million in Fiscal Year 2015, \$15.1 million in Fiscal Year 2016, \$17.1 million in Fiscal Year 2017, \$19.2 million in Fiscal Year 2018, and \$20.9 million in Fiscal Year 2019. Conforming to the enhanced federal earned income tax provisions and the changes made by the American Taxpayer Relief Act of 2012 would have no revenue impact because it is already assumed in the Introduced Executive Budget and Executive Amendments to the Budget. A \$7 million decrease in General Fund revenue in Fiscal Year 2013 is assumed in the Introduced Executive Budget. Conforming to the American Taxpayer Relief Act of 2012 would result in two provisions of that act having a positive impact on General Fund revenue:

- The extension of the repeal of the Pease limitation on income at or below \$250,000 (individual filers), \$275,000 (head of households), and \$300,000 (married filing jointly) for taxable years beginning after December 31, 2012.
- Allowing any amount in a non-Roth account to be converted to a Roth account in the same plan, whether or not the amount is distributable. The amount converted would be subject to taxation.

The General Fund revenue gain derived from conforming to these provisions is described in the table below:

The American Taxpayer Relief Act of 2012							
Revenue Impact (Millions of dollars)							
Provision	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Limit itemized deductions	\$0.2	\$6.4	\$5.6	\$6.1	\$6.7	\$7.3	\$7.8
Allow certain transfers into a Roth IRA	\$0.0	\$7.7	\$7.7	\$9.0	\$10.4	\$11.9	\$13.1
Net Total	\$0.2	\$14.1	\$13.3	\$15.1	\$17.1	\$19.2	\$20.9

The revenue impact for Fiscal Year 2013 and 2014 is assumed in Executive Amendments to the Budget.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Virginia's conformity to the IRC is currently fixed to the IRC as it existed on December 31, 2011.

Federal Law

In 2009, the American Recovery and Reinvestment Act ("ARRA") temporarily increased the EITC for Taxable Years 2009 and 2010. The expanded calculation of the EITC was scheduled to sunset on December 31, 2010, reverting back to the calculation as it existed prior to January 1, 2009. However, this was extended through Taxable Year 2012 by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.

On January 2, 2013, Congress enacted the American Taxpayer Relief Act of 2012, which extended several federal tax provisions that were scheduled to expire. This bill extended the enhanced EITC to taxable years ending before Taxable Year 2018. This bill also extended certain federal income tax rates, tax credits, AMT provisions, estate tax provisions, provisions of the federal research and experimentation tax credit, and certain itemized and above-the-line deductions for individuals. Two provisions of the federal legislation would impact Virginia tax revenues:

- Extending the repeal of the Pease limitation on income at or below \$250,000 (individual filers), \$275,000 (head of households), and \$300,000 (married filing jointly) for taxable years beginning after December 31, 2012.
- Permitting any amount in a non-Roth account to be converted to a Roth account in the same plan, whether or not the amount is distributable. The amount converted would be subject to taxation.

Proposed Legislation

This bill would advance Virginia's date of conformity to the Internal Revenue Code (IRC) from December 31, 2011 to January 2, 2013. This would allow Virginia to conform to the American Taxpayer Relief Act of 2012.

Virginia would continue to disallow any bonus depreciation allowed for certain assets under federal income taxation and any five year carry-back of NOLs allowed for NOLs generated in either Taxable Year 2008 or 2009. In addition, Virginia would continue to

disallow the federal treatment of tax deductions related to applicable high yield discount obligations. Virginia would continue to deconform from any tax exclusions related to cancellation of debt income realized in connection with a reacquisition of business debt at a discount after December 31, 2008, and before January 1, 2011.

In order to make filing less complicated for certain low-income taxpayers, and to allow them to benefit from federal changes, Virginia would conform to the temporary enhancements to the federal EITC for Taxable Year 2012.

Because some taxpayers will be preparing their Virginia returns while the General Assembly is in session, this bill contains an emergency clause which states that it would be in force from its passage.

Similar Bills

House Bill 2150 is identical to this bill.

cc : Secretary of Finance

Date: 3/21/2013 MTH
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