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HOUSE BILL NO. 371

Offered January 8, 2014

Prefiled January 3, 2014

A BILL to amend and reenact § 58.1-3702 of the Code of Virginia, relating to changing the local license tax from a tax on gross receipts to a tax on net income of businesses.

Patron—Head

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3702 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3702. Authority of counties, cities, and towns.

A. The provisions of this chapter shall be the sole authority for counties, cities, and towns for the levying of the license taxes described herein. Except as provided herein, the governing body of every county, city and town that levies such license tax may impose the tax on the gross receipts or such license taxes shall be imposed on the Virginia taxable income of the business a corporation, the net income of a sole proprietorship, and the net income of a pass-through entity.

B. 1. The Virginia taxable income of a corporation shall be calculated pursuant to the provisions of § 58.1-322 or 58.1-402, whichever is applicable to the business.

2. Throughout this chapter, except in § 58.1-3731, wherever the term "gross receipts" is used, the term "Virginia taxable income" shall be substituted whenever a county, city or town selects it as the base on which to levy the license tax whenever a license tax is imposed upon (i) a corporation, then wherever the term "gross receipts" is used, the term "Virginia taxable income" shall be substituted and (ii) a sole proprietorship or a pass-through entity, then wherever the term "gross receipts" is used, the term "net income" shall be substituted.

C. If (i) a business has a definite place of business in more than one county, city, or town in the Commonwealth, or in more than one state, including a jurisdiction in the Commonwealth, and (ii) a county, city, or town in the Commonwealth in which the business has a definite place of business levies the license tax on such business based on Virginia taxable income or net income, as applicable, then Virginia taxable income or net income shall be apportioned to such definite place of business in the county, city, or town on the basis of payroll, regardless of the situs rules of § 58.1-3703.1.

D. 1. Notwithstanding any other provision of this section, a county, city, or town imposing the license tax pursuant to § 58.1-3716, 58.1-3718, 58.1-3719.1, or 58.1-3731 shall impose the tax (i) using the tax base provided under the respective section and (ii) at a rate not to exceed the maximum tax rate under the respective section.

2. Notwithstanding any other provision of this section, a county, city, or town imposing the tax pursuant to § 58.1-3712, 58.1-3713, or 58.1-3713.4 shall impose the tax using the tax base and the sourcing or situs rules under the respective section and in accordance with all other provisions of the respective section.

3. The requirement under this section to impose the license tax on the Virginia taxable income of corporations and the net income of sole proprietorships and pass-through entities shall not be applicable to the tax under § 58.1-3717 or the taxes under §§ 58.1-3726 through 58.1-3730.1.

E. Notwithstanding any other provision of this section, whenever a license tax is imposed upon the Virginia taxable income of a corporation or the net income of a sole proprietorship or pass-through entity, the provisions of § 58.1-3732, §§ 58.1-3732.2 through 58.1-3732.5, and §§ 58.1-3734 and 58.1-3734.1 shall not apply.

F. For purposes of this section, "pass-through entity" means the same as such term is defined in § 58.1-390.1.

2. That the provisions of this act shall become effective for the 2015 "license year" as defined under § 58.1-3700.1 of the Code of Virginia and all license years thereafter.

3. That the Department of Taxation shall develop and make publicly available guidelines implementing the provisions of this act. In developing such guidelines, the Department shall not be subject to the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

INTRODUCED

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