

**DEPARTMENT OF TAXATION
2015 Fiscal Impact Statement**

1. Patron James M. LeMunyon

3. Committee Passed House and Senate

4. Title Individual Income Tax Subtraction;
Discharge of Student Loans

2. Bill Number HB 1716

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. Summary/Purpose:

This bill would allow an individual income tax subtraction for income attributable to the discharge of a student loan solely by reason of the student's death.

This bill would be effective for taxable years beginning on or after January 1, 2015.

6. Budget amendment necessary: No.

7. Fiscal Impact Estimates are: Not available. (See Line 8).

8. Fiscal implications:

Administrative Costs

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

Revenue Impact

This bill would have an unknown negative General Fund revenue impact beginning in Fiscal Year 2016. It is uncertain how many qualifying student loans will be discharged due to death that will not already be excluded from taxation under the federal insolvency exception.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Federal Law

Under federal law, the discharge of indebtedness, including discharged student loans, is includible in a taxpayer's gross income unless an exclusion applies. An exclusion is provided when student loans are discharged on behalf of an insolvent taxpayer. A taxpayer is considered insolvent to the extent his or her liabilities, including student loans, exceed the fair market value of his or her assets immediately before the discharge. This exclusion is limited to the amount by which a taxpayer is insolvent.

Another exclusion from gross income is provided for the discharge of all or part of certain government student loans, and loans made by certain public benefit corporations and tax-exempt educational organizations, if the discharge is contingent on the taxpayer working for a defined period of time in certain public service professions.

For federal income tax purposes, student loans that are discharged by reason of a taxpayer's death or total and permanent disability are not excluded from his or her gross income.

Virginia Law

For individual income tax purposes, Virginia generally conforms to federal income tax law and begins the calculation of a taxpayer's Virginia taxable income with his or her federal adjusted gross income ("FAGI"). Virginia does not provide any specific subtractions, credits, or deductions for discharged student loans. Accordingly, such income is subject to Virginia income taxation to the extent it is included in a taxpayer's FAGI.

Proposed Legislation

This bill would allow an individual income tax subtraction for income attributable to the discharge of a student loan solely by reason of the student's death.

"Student loan" would mean any loan to an individual to assist such individual in attending an educational organization that was made by:

- The United States, or an instrumentality or agency thereof;
- A state, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof;
- Certain tax-exempt public benefit corporations that have assumed control over a state, county, or municipal hospital and whose employees have been deemed public employees under state law; and
- Charitable educational organizations, if such loan was made:
 - Pursuant to an agreement with one of the above-listed entities; or

- Pursuant to a program designed to encourage its students to serve in occupations or areas with unmet needs, and under which the services provided by the students are for or under the direction of a governmental unit or certain tax-exempt organizations.

This bill would generally not apply to the discharge of private loans, nor would it apply to the discharge of loans that are already excluded from federal income taxation.

This bill would be effective for taxable years beginning on or after January 1, 2015.

Similar Bills

Senate Bill 933 is identical to this bill.

cc : Secretary of Finance

Date: 2/19/2015 MTH
HB1716FER161