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HOUSE JOINT RESOLUTION NO. 619

Offered January 11, 2017

Prefiled January 8, 2017

Requesting the Tax Commissioner to study disincentives to upgrade machinery and tools. Report.

Patron—Davis

Referred to Committee on Rules

WHEREAS, Article X, Section 4 of the Constitution of Virginia segregates tangible personal property for local taxation; and

WHEREAS, the Supreme Court of Virginia stated in *City of Roanoke v. James W. Michael's Bakery Corporation*, 180 Va. 132 (1942), "The term 'tangible personal property[]' . . . is a restricted or technical term and was not intended to include capital used in business"; and

WHEREAS, Article X, Section 6 of the Constitution of Virginia empowers the General Assembly to exempt intangible personal property in whole or in part from taxation; and

WHEREAS, the Supreme Court of Virginia in *City of Roanoke v. James W. Michael's Bakery Corporation*, 180 Va. 132 (1942), upheld the General Assembly's classification of business capital as intangible and exempt from taxation; and

WHEREAS, Article X, Sections 4 and 6 and the Supreme Court of Virginia's interpretation of those provisions indicate that the General Assembly has wide latitude to classify and exempt from taxation business capital; and

WHEREAS, subdivision A 2 of § 58.1-1101 of the Code of Virginia exempts from taxation "[c]apital which is personal property, tangible in fact, used in manufacturing"; and

WHEREAS, subdivision A 2 of § 58.1-1101 of the Code of Virginia further states, "Machinery and tools, motor vehicles and delivery equipment of such businesses shall not be defined as intangible personal property for purposes of this chapter and shall be taxed locally as tangible personal property"; and

WHEREAS, § 58.1-3507 of the Code of Virginia authorizes localities to impose a tax on machinery and tools used in manufacturing, mining, and other activities; and

WHEREAS, § 58.1-3103 of the Code of Virginia stipulates that localities must assess property under their taxing authority at fair market value; and

WHEREAS, subsection B of § 58.1-3507 of the Code of Virginia establishes a methodology for ascertaining the fair market value of machinery and tools which requires local taxing authorities to use depreciated cost or a percentage or percentages of original total capitalized cost; and

WHEREAS, the sustained economic growth of the Commonwealth depends upon continued investments by businesses in upgrades to machinery and tools; and

WHEREAS, upgrades to machinery and tools result in an increase in their value and potentially could increase the tax burden of a taxpayer who invests in such upgrades; and

WHEREAS, an increased tax burden resulting from an upgrade to machinery and tools would create a disincentive for a taxpayer to invest in upgrades to machinery and tools; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Tax Commissioner be requested to study disincentives to upgrade machinery and tools. In conducting its study, the Tax Commissioner shall identify disincentives in the Code of Virginia that discourage investment in upgrades to machinery and tools. The Tax Commissioner shall propose modifications to the Code of Virginia that remove such disincentives, including but not limited to requiring localities to utilize a fixed depreciation schedule for machinery and tools that would not change as a result of an investment in an upgrade to machinery and tools. The Tax Commissioner shall develop a plan to offset lost tax revenue, if any, that would result from such modifications.

Technical assistance shall be provided to the Tax Commissioner by the commissioners of the revenue of localities of the Commonwealth. All agencies of the Commonwealth shall provide assistance to the Tax Commissioner for this study, upon request.

The Tax Commissioner shall complete his meetings by November 30, 2017, and shall submit to the Governor and the General Assembly an executive summary and a report of his findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2018 Regular Session of the General Assembly and shall be posted on the General Assembly's website.

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