

# DEPARTMENT OF TAXATION

## 2010 Fiscal Impact Statement

1. **Patron** Benjamin L. Cline

3. **Committee** House Finance

4. **Title** Corporate Income Tax; Rate Reduction

2. **Bill Number** HB 860

**House of Origin:**

  X   **Introduced**

      **Substitute**

      **Engrossed**

**Second House:**

      **In Committee**

      **Substitute**

      **Enrolled**

**5. Summary/Purpose:**

This bill would reduce the corporate income tax rate from 6.0% to 5.75%.

The tax rate reduction would be effective for taxable years beginning on or after January 1, 2010.

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

**6b. Revenue Impact:**

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Fund</b></i>
2009-10	(\$5.8 Million)	GF
2010-11	(\$54.2 Million)	GF
2011-12	(\$34.9 Million)	GF
2012-13	(\$35.5 Million)	GF
2013-14	(\$35.6 Million)	GF
2014-15	(\$36.8 Million)	GF
2015-16	(\$37.2 Million)	GF

7. **Budget amendment necessary:** Yes.

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**8. Fiscal implications:**

Administrative Costs

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as "routine," and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not "routine." Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either

house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

### Revenue Impact

This bill would have a negative revenue impact on General Fund revenues in the amount of \$5.8 million in FY 2010, \$54.2 million in FY 2011, \$34.9 million in FY 2012, \$35.5 million in FY 2013, \$35.6 million in 2014, \$36.8 million in 2015 and \$37.2 million in FY 2016.

Because Taxable Year 2010 begins during FY 2010, this analysis assumes that some portion of corporations will adjust estimated payments that are due during FY 2010 in order to reflect the new rate. For calendar year filers, two estimated payments would be due in FY 2010, which are the payments due on April 15 and June 15.

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

Department of Taxation

### **10. Technical amendment necessary: No.**

### **11. Other comments:**

#### Virginia Corporate Income Tax

The corporate income tax is imposed at the rate of six percent on the Virginia taxable income of domestic and foreign corporations doing business in Virginia. A “corporation” is any entity created as a corporation under the laws of any state or local domestic or foreign jurisdiction, and any association, joint stock company, or any other entity subject to corporate income tax under the Internal Revenue Code § 7701.

A corporation’s taxable income is determined by allocation and apportionment when the income is derived from sources both within and without Virginia. Multistate corporations allocate and apportion federal taxable income after Virginia modifications are made to determine the amount of attributable to Virginia. There is no allocation or apportionment needed when the entire business of a corporation is conducted or transacted within Virginia. Instead, the Virginia corporate income tax is imposed upon the entire Virginia taxable income of the corporation for each taxable year.

The corporate income tax has become a major revenue source for Virginia. According to the Annual Report for Fiscal Year 2009, the corporate income tax produced \$648 million in revenue. The corporate income tax produces the third highest amount of revenue behind the individual income tax and the state sales and use tax.

There are other business entities that are not subject to corporate income tax and would not receive a benefit under this bill. Banks and trust companies are subject to a bank franchise tax, and insurance companies are subject to a premiums tax. Businesses organized as pass-through entities, such as partnerships, LLPs, LLCs, etc., are not taxed at the entity level, but their members are typically subject to the individual income tax.

Individuals who operate businesses as sole proprietorships also are subject to the individual income tax. For Taxable Year 2007, over 170,000 pass-through entity returns were filed, as compared to under 71,000 corporate income tax returns. In addition, based on IRS data, there were 535,294 individual returns filed for Taxable Year 2007 in Virginia that were sole proprietorships. This number includes a broad range of businesses, from people selling products part-time, to tradesmen (plumbers, electricians, carpenters, etc.) running a full-time business.

#### Proposed Legislation

This bill would reduce the corporate income tax rate from 6.0% to 5.75%.

The tax rate reduction would be effective for taxable years beginning on or after January 1, 2010.

#### Other Legislation

**House Bill 94** would reduce the corporate income tax rate by one percent for small businesses that increase the number of their employees by a minimum of five percent over the number of employees in the immediately preceding year. This bill would also provide that the one percent tax rate reduction would be allowed for no more than three taxable years.

**House Bill 119** would eliminate Virginia's corporate income tax for taxable years beginning on and after January 1, 2010.

**House Bill 896** and **Senate Bill 421** would reduce the corporate income tax rate from 6% to 5.4% percent for small businesses.

**Senate Bill 325** would reduce the corporate income tax rate from six percent to three percent for the first three years after a business establishes a new office or operation or expands an existing office or operation in a nonattainment area under the Clear Air Act, for taxable years beginning on or after January 1, 2010. The capital investment must be \$250,000 or more and the tax reduction may not exceed that amount of the capital investment made by the corporation.

cc : Secretary of Finance

Date: 1/17/2010 TG  
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