

DEPARTMENT OF TAXATION

2010 Fiscal Impact Statement

1. **Patron** Robert B. Bell, III

2. **Bill Number** HB 910

3. **Committee** House Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Individual Income Tax: Increase Deduction
for Unreimbursed Organ Donation Expenses

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would increase the individual income tax deduction limit from \$5,000 to \$25,000 on the amount of unreimbursed out-of-pocket expenses paid by a living donor of an organ or other living tissue. The taxpayer could not claim this deduction if he had deducted the medical expenses on his federal income tax return.

This bill would be effective for taxable years beginning on or after January 1, 2010.

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

7. **Budget amendment necessary:** No.

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 an unknown negative impact on General Fund revenue. According to Virginia income tax records for tax year 2007, there were 64 taxpayers who deducted a total of \$81,774.68 for unreimbursed expenses attributable to organ donation. The

average amount claimed was \$1,277.73, and only 11 taxpayers claimed the \$5,000 maximum. If all 11 of these taxpayers had claimed the full \$25,000 deduction, the negative revenue impact on the General Fund would have been under \$12,000. However, the actual impact of this bill is likely much less.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Federal Medical and Dental Expenses Deduction

Currently, if a taxpayer itemizes his deductions on his federal income tax return, the taxpayer may claim a deduction for the amount of medical and dental expenses that is greater than 7.5% of his federal adjusted gross income. Generally, taxpayers may take into account medical expenses paid for themselves, as well as those paid for someone who was either a spouse or a dependent when the medical services were paid for or provided. Because Virginia conforms to the Internal Revenue Code, this federal deduction would also flow through to the Virginia income tax return.

Other States

There are several states that provide tax deductions for living organ donations. Arkansas, Minnesota, Mississippi, Ohio, Rhode Island, and Wisconsin currently provide a deduction of up to \$10,000 for unreimbursed expenses for a taxpayer who, while living, donates one or more human organs for transplant into another human being. The deduction in most states is allowed for expenses related to travel, lodging, lost wages, and medical care.

Virginia Law

Under current law, an individual income tax deduction is allowed for taxpayers who are living donors of organs or other living tissues. The deduction is equal to the lesser of \$5,000 or the amount actually paid by the taxpayer for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12 months of such donation. The taxpayer is prohibited from claiming this deduction if he has already deducted the medical expenses on his federal return. The deduction may be taken in the taxable year of the donation or in the taxable year during which the 12 month period expires.

Proposed Legislation

This bill would increase the individual income tax deduction limit on the amount of unreimbursed out-of-pocket expenses paid by a living donor of an organ or other living tissue from \$5,000 to \$25,000. The taxpayer could not claim this deduction if he had deducted the medical expenses on his federal income tax return.

This bill would be effective for taxable years beginning on or after January 1, 2010.

cc : Secretary of Finance

Date: 1/17/2010 TG
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