

DEPARTMENT OF TAXATION

2011 Fiscal Impact Statement

1. **Patron** Jennifer L. McClellan

3. **Committee** House Finance

4. **Title** Income Tax: Employee Transportation Assistance Credit.

2. **Bill Number** HB 2360

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would create an individual and corporate income tax credit for employers equal to 25% of all expenditures paid or incurred for providing employee transportation assistance.

The bill would be effective for taxable years beginning on and after January 1, 2012.

6. Budget amendment necessary: No.

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

8. Fiscal implications:

Administrative Costs

The Department of Taxation considers implementation of this bill as "routine," and does not require additional funding.

Revenue Impact

The negative General Fund revenue impact this bill is not known. It is impossible to determine how many employers would consider providing transportation assistance as a result of this bill. Further, the bill does not clearly define what expenditures would be included in transportation assistance.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Under federal law, ordinary and necessary business expenses may be deducted. An "ordinary expense" is one that is common and accepted in the trade or business. A "necessary expense" is one that is helpful and appropriate for the trade or business. An expense does not have to be indispensable to be considered necessary. Any such deduction for federal income tax purposes would also flow through to the Virginia income tax return. To the extent that employee transportation assistance expenses would qualify as ordinary and necessary expenses for federal income tax purposes, such expenses would flow through on the Virginia income tax return.

In addition, certain transportation fringe benefits provided to employees are excluded from the employee's federal adjusted gross income (FAGI). With certain limitations, transportation fringe benefits include employer provided motor vehicles, parking, transit passes, van pools, bicycle commuting, and chauffeurs. To the extent that these transportation assistance fringe benefits would be excluded from FAGI, such benefits would also be excluded from Virginia income tax return.

Proposal

Under this bill, any employer would be permitted to claim a credit against an income tax liability for the provision of transportation assistance to employees. The credit could be claimed against either the individual income tax or the corporate income tax and would be equal to 25% of all expenditures paid or incurred by the employer during a taxable year for transportation assistance provided to qualified employees for travel to and from the employer's business operations.

A "qualified employee" would mean an employee in a full-time position requiring a minimum of 1,680 hours in the entire normal year of the employer's business operations.

The amount of credit claimed could not exceed the income tax liability for a taxable year. An employer that would not be able to claim all of the credit earned for the taxable year would be permitted to carry the unused credit over for up to three succeeding taxable years.

This bill would be effective for taxable years beginning on and after January 1, 2012.

Similar Bills

House Bill 2197 and **Senate Bill 1335** would create an income tax credit for employers who incur eligible telework expenses.

Senate Bill 1313 is identical to this bill.

cc : Secretary of Finance

Date: 1/22/2011 dtm
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