DEPARTMENT OF TAXATION
2011 Fiscal Impact Statement

1. Patron Mark D. Obenshain

2. Bill Number SB 1403

House of Origin:
X **Introduced**
____ **Substitute**
____ **Engrossed**

Second House:
____ **In Committee**
____ **Substitute**
____ **Enrolled**

3. Committee Senate Finance

4. Title Corporate income tax - Repeal

5. Summary/Purpose:

This bill would eliminate the Virginia corporate income tax.

This bill would be effective for taxable years beginning on and after July 1, 2013.

6. Budget amendment necessary: Yes.
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7. Fiscal Impact Estimates are: Preliminary. (See Line 8.)

7a. Expenditure Impact:

Fiscal Year	***Dollars***	***Fund***
2010-11	$0	GF
2011-12	$0	GF
2012-13	$0	GF
2013-14	($186,000)	GF
2014-15	($186,000)	GF
2015-16	($186,000)	GF
2016-17	($186,000)	GF

7b. Revenue Impact:

Fiscal Year	***Dollars***	***Fund***
2010-11	$0	GF
2011-12	$0	GF
2012-13	$0	GF
2013-14	($659.3 million)	GF
2014-15	($1,270.4 million)	GF
2015-16	($994.3 million)	GF
2016-17	($1,014.2 million)	GF

8. Fiscal implications:

Administrative Costs

This bill would create an annual cost savings of $186,000 beginning in FY 2014 for TAX by reducing the amount of funding needed for data collection, systems maintenance and error resolution. These cost savings include those resulting from the elimination of two full-time positions and one part-time position.

Revenue Impact

This bill would significantly reduce General Fund revenues by $659.3 million in FY 2014, $1,270.4 million in FY 2015, $994.3 million in FY 2016, and $1,014.2 million in FY 2017. The impact in FY 2016 and later fiscal years equals the amounts reported in the Official Revenue Forecast, plus compliance revenue, which would no longer be collected.

This bill would impact the flow of compliance revenue. TAX would continue to collect compliance revenue from previous tax years through FY 2015. However, it is estimated that the revenue would be reduced in FY 2016 and effectively cease in FY 2017. Based on historical collections, there would be a loss of $30 million in FY 2016 and annual losses of $60 million in FY 2017 and later.

Because this bill would be effective for taxable years beginning on or after July 1, 2013, taxpayers with a taxable year beginning on or before July 1, 2013 would be required to continue paying taxes for the full taxable year.

9. Specific agency or political subdivisions affected:

Department of Taxation
State Corporation Commission

10. Technical amendment necessary: Yes.

This bill would delete Article 13 of Chapter 3 of Title 58.1 in its entirety. Certain sections in Article 13 include provisions for tax credits that apply to individuals, trusts, estates, banks subject to the bank franchise tax, and companies subject to the insurance premiums tax, in addition to corporations. Repealing the entire article would result in the repeal of these credits not only for corporations, but also for individuals, trusts, and estates, as well as taxpayers subject to the bank franchise tax and the insurance premiums tax.

Credits in Article 13 that currently apply to both corporations and other taxpayers include:

- The low-income housing credit (*Va. Code* § 58.1-435);
- The major business facility job tax credit (*Va. Code* § 58.1-439);
- The coalfield employment enhancement tax credit (*Va. Code* § 58.1-439.2);
- The day-care facility investment tax credit (*Va. Code* § 58.1-439.4);
- The worker retraining tax credit (*Va. Code* § 58.1-439.6);

- The tax credit for purchase of machinery and equipment for processing recyclable materials (*Va. Code* § 58.1-439.7);
- The tax credit for certain employers hiring recipients of Temporary Assistance to Needy Families (*Va. Code* § 58.1-439.9);
- The tax credit for purchase of waste motor oil burning equipment (*Va. Code* § 58.1-439.10); and
- The employees with disabilities tax credit (*Va. Code* § 58.1-439.11).

TAX assumes it is not the intent of this bill to repeal credits that apply to taxpayers other than corporations. Accordingly, TAX suggests that a substitute bill be drafted that would not repeal the sections relating to tax credits that could be claimed against individual, trust and estate, bank franchise tax, or insurance premiums taxes, but would instead delete any references to the corporate income tax in these sections.

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. About 71,000 corporations file Virginia income tax returns.

The corporate income tax is a major revenue source for Virginia. According to the Annual Report for Fiscal Year 2009, the corporate income tax produced $648 million in revenue, which is the third highest amount of revenue behind the individual income tax and the state sales and use tax. However, corporate income tax revenue fluctuates significantly with the economic conditions. See the chart below for details about the amount of corporate income tax revenues collected annually.

Corporate Income Tax Revenue (1999-2010)

Fiscal Year	Amount
1999	$420,421,456
2000	$565,909,181
2001	363,757,398
2002	290,215,035
2003	343,318,607
2004	425,715,754
2005	616,690,263
2006	867,115,786
2007	879,575,371
2008	807,851,584
2009	648,032,537
2010	806,472,760

There are other business entities that are not subject to corporate income tax. 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.

Other States

Currently, the only states that do not impose a corporate income tax are Nevada, South Dakota, Washington, and Wyoming.

Proposed Legislation

This bill would eliminate the Virginia corporate income tax. It would also eliminate the minimum taxes on telecommunications companies and electric suppliers.

This bill would be effective for taxable years beginning on and after July 1, 2013.

Similar Legislation

House Bill 2151 would also eliminate the corporate income tax, effective for taxable years beginning on or after January 1, 2011.

cc : Secretary of Finance

Date: 1/23/2011 KLC
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