DEPARTMENT OF TAXATION
2012 Fiscal Impact Statement

1. Patron Vivian E. Watts

2. Bill Number HB 408

House of Origin:
_____ **Introduced**
_____ **Substitute**
_____ **Engrossed**

Second House:
_____ **In Committee**
_____ **Substitute**
X **Enrolled**

3. Committee Passed by House and Senate

4. Title Real Property Tax; Computation for Determining Annual Income for Real Property Tax Relief

5. Summary/Purpose:

This bill would relax the formula for computing annual income and net worth for purposes of determining whether elderly or disabled taxpayers qualify for real property tax relief. In determining annual income and net worth, localities would not be required to use total income or total net worth. Further, the bill would remove the requirement that income include only those sources of gross income that are subject to tax under federal income tax laws, regulations, rules or policies, for purposes of determining whether elderly or disabled individuals qualify for real property tax relief.

Under current law, localities are authorized to establish annual income and net worth limitations for purposes of determining whether the elderly and disabled qualify for real property tax relief. If the governing body establishes an annual income limitation, annual income must be computed by adding together the total income received during the preceding calendar year, without regard to whether a tax return is actually filed, by 1) owners of the dwelling who use it as their principal residence, 2) owners' relatives who live in the dwelling, and 3) at the option of each locality, nonrelatives of the owner who live in the dwelling except for bona fide tenants or bona fide paid caregivers of the owner. In determining income, current law requires that income include only those sources of gross income that are subject to tax under federal income tax laws, regulations, rules or policies.

The effective date of this bill is not specified.

6. Budget amendment necessary: No.

7. Fiscal Impact Estimates are: Not available. (See Line 8.)

8. Fiscal implications:

This bill would have no impact on state revenues. To the extent that local governments have more flexibility in determining the income and financial worth of the elderly and disabled, this bill may result in a decrease or increase in local revenues. To the extent that local governing bodies include in their income determinations sources of gross income that are excluded from the federal income tax definition of gross income, this bill has the potential to decrease the number of elderly and disabled taxpayers that qualify for real property tax relief, thereby resulting in an unknown increase in local real property tax revenue.

9. Specific agency or political subdivisions affected:

Localities with net financial worth or income limitations related to tax exemptions and deferral programs for the elderly.

10. Technical amendment necessary: No.

11. Other comments:

<u>Current Law</u>

Virginia authorizes localities to adopt exemption and deferral programs for the elderly or handicapped to provide tax relief for persons sixty-five years of age or older and for those who are permanently and totally disabled. The governing body of any locality may elect to adopt an exemption program, a deferral program, a combination of both, or none of the above. Income and net financial worth restrictions were incorporated in the exemption and deferral programs to direct tax relief to those whose incomes and financial worth are sufficiently low to merit such relief.

Prior to 2010, the *Virginia Code* specified the net financial worth and income limitations an elderly or disabled individual had to meet in order to qualify for exemption or deferral from real property taxes. Some localities were statutorily granted authority to increase their income limits to certain specified amounts.

On November 2, 2010, voters approved a constitutional amendment to Article X, § 6 of the *Constitution of Virginia*, authorizing the General Assembly to permit localities to establish their own income or financial worth limitations for purposes of granting property tax relief to homeowners who are 65 years of age or older or permanently and totally disabled. The General Assembly subsequently enacted legislation, effective for tax years beginning on or after January 1, 2011 authorizing local governing bodies to establish by ordinance their own net financial worth or annual income limitations as a condition of eligibility for any exemption or deferral of real property tax. For those localities that establish annual income limitations, the law now provides that annual income must be computed by adding together the total income received during the preceding calendar year, without regard to whether a tax return is actually filed by 1) owners of the dwelling who use it as their principal residence, (2) owners' relatives who live in the dwelling, and (3) nonrelatives of the owner who live in the dwelling except bona fide tenants or bona fide paid caregivers of the owner. The law limits income to those sources of gross income that are subject to tax under federal income tax laws, regulations, rules or policies.

In addition to the statutory restrictions on income, localities may exclude at their discretion additional sources of income for purposes of the annual income limitation.

Gross Income

The *Internal Revenue Code* defines gross income to mean all income from whatever source derived, including (but not limited to): 1) compensation for services; 2) gross income derived from business; 3) gains derived from dealings in property; 4) interest; 5) rents; 6) royalties; 7) dividends; 8) alimony and separate maintenance payments; 9) annuities; 10) income from life insurance and endowment contracts; 11) pensions; 12) income from discharge of indebtedness; 13) distribute share of partnership gross income; 14) income in respect of a decedent; and 15) income from an interest in an estate or trust.

In addition, the *Code* sets forth a comprehensive list of items that are excluded from gross income. For example, certain proceeds of life insurance contracts payable by reason of death; property acquired by gift, bequest devise or inheritance; interest on any state or local bond; amounts received under workmen's compensation to compensate for personal injuries or sickness; and the rental value of homes furnished to ministers as part of their compensation are just a few of the types of income that are specifically excluded from gross income for purposes of the federal income tax.

Proposal

This bill would relax the formula for computing annual income and net worth for purposes of determining whether elderly or disabled taxpayers qualify for real property tax relief. In determining annual income or net worth, instead of requiring localities to compute the income and net worth using total income or total net worth, this bill would allow localities to base the annual income and net worth determination on the sum of the income received during the preceding calendar year, or the sum of the net financial worth for the preceding year.

The bill would also remove the requirement that income include only those sources of gross income that are subject to tax under federal income tax laws, regulations, rules or policies, for purposes of determining whether the elderly or disabled individuals qualify for real property tax relief.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 3/2/2012 KP
DLAS File Name HB 408FER161