DEPARTMENT OF TAXATION
2013 Fiscal Impact Statement

1. Patron S. Chris Jones

2. Bill Number HB 2047

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

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

3. Committee Senate Finance

4. Title Individual Income Tax; Long-Term Health Care Insurance Deduction and Tax Credit

5. Summary/Purpose:

This bill would repeal the Long-Term Care Insurance Tax Credit. This bill would not affect any Long-Term Care Insurance Tax Credits earned prior to the repeal, or the administration of such tax credits.

This bill would also clarify that the individual income tax deduction for long-term health care insurance premiums paid by an individual during the taxable year is disallowed if the individual has claimed a federal income tax deduction for such taxable year for long-term health care insurance premiums paid by him.

This bill would be effective for taxable years beginning on or after January 1, 2014.

6. Budget amendment necessary: No.

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

8. Fiscal implications:

Administrative Costs

The Department considers implementation of this bill as routine, and is not requesting additional funding.

Revenue Impact

This bill would have an unknown positive General Fund revenue impact, beginning in Fiscal Year 2014 and in the fiscal years thereafter. According to the Department's Fiscal Year 2012 Tax Credit Report, 9,142 taxpayers claimed $1,999,251 in Long-Term Care Insurance Tax Credits. However, repealing the tax credit would not yield General Fund revenue gain equal to the amount of tax credits that would have been claimed. That is because taxpayers may carryforward such tax credits for up to five taxable years. Further, taxpayers that previously claimed the tax credit could still deduct such payments. Therefore, the net revenue impact is unknown.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Federal Treatment of Long-Term Care Insurance

Federal law allows an itemized deduction for long-term care insurance premiums. An individual can deduct only the part of the medical and dental expenses, including long-term care insurance, that is more than 10 percent of the individual's adjusted gross income. An individual can deduct long-term care insurance premiums paid for himself, a spouse, or a dependent.

The amount of qualified long-term care premiums that can be deducted is limited based on age. For 2013, if the individual for whom the policy was purchased is under the age of 40 the maximum allowable deduction is $200, for ages 41 to 50, the maximum is $375, for ages 51 to 60, the maximum is $750, for ages 61 to 70, the maximum is $2,000, and for individuals age 71 and over, the maximum is $2,500.

In general, benefits from long-term care insurance policies are excludable from federal gross income. Thus, Virginia would not tax the benefits. However, if the amount received from periodic payments exceeds a per diem limitation, the excess is includible in gross income, and would also be taxed by Virginia. For 2013, the per diem limitation consists of the greater of $175 per day or the costs incurred for qualified long-term care services provided for the insured, minus the payments received as reimbursements, through insurance or otherwise, for qualified long-term care services provided for the insured during such period.

Virginia Long-Term Care Insurance Tax Credit

Virginia allows taxpayers to claim a tax credit against their individual income tax liability equal to 15 percent of the qualified long-term care insurance premiums paid by the taxpayer during the taxable year pursuant to an insurance policy entered into on or after January 1, 2006. In order to qualify, the premiums paid by a taxpayer must be for long-term care insurance coverage for himself. Further, total tax credits allowed over the life of any policy cannot exceed 15 percent of the amount of premiums paid for the first 12 months of coverage. The tax credit may not be claimed to the extent that the individual has claimed a Virginia deduction for long-term care insurance premiums.

Virginia Treatment of Long-Term Care Insurance

Virginia allows taxpayers to deduct the amount paid annually in premiums for long-term health care insurance, to the extent that the individual has not deducted the premiums for federal income tax purposes. The law does not specify who must be insured by the policy.

Va. Code § 58.1-322 D10, states that the deduction will be allowed "provided the individual has not claimed a deduction for federal income tax purposes," or a Virginia Long-Term Care Insurance Tax Credit. In Public Document 07-211 (12/05/2007), the Department interpreted the "provided" clause in the statute as merely disallowing the deduction to the extent that the taxpayer claimed the federal deduction or the Virginia Long-Term Care Insurance Tax Credit.

Proposed Legislation

This bill would repeal the Long-Term Care Insurance Tax Credit. This bill would not affect any Long-Term Care Insurance Tax Credits earned prior to the repeal, or the administration of such tax credits.

This bill would clarify the law for taxable years on or after January 1, 2014 by completely disallowing the long-term health care insurance premiums deduction if the individual has claimed a federal income tax deduction for such taxable year for long-term health care insurance premiums paid by him. The existing "provided" clause, which was interpreted as allowing the deduction to the extent that the individual has not deducted such premiums for federal income tax purposes, would be eliminated under this bill.

This bill would be effective for taxable years beginning on or after January 1, 2014.

cc : Secretary of Finance

Date: 2/5/2013 MTH
HB2047FE161