

DEPARTMENT OF TAXATION

2014 Fiscal Impact Statement

1. **Patron** Stephen H. Martin

3. **Committee** Senate Finance

4. **Title** Elimination of the Corporate Income Tax.

2. **Bill Number** SB 619

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would eliminate Virginia's corporate income tax by lowering the tax rate to zero percent.

This bill would be effective for taxable years beginning on or after January 1, 2015.

6. **Budget amendment necessary:** Yes.

ITEM(S): Page 1, Revenue Estimates

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

7b. **Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2013-14	\$0	GF
2014-15	(\$485.3 million)	GF
2015-16	(\$1,078.3 million)	GF
2016-17	(\$805.6 million)	GF
2017-18	(\$826.8 million)	GF
2018-19	(\$856.3 million)	GF
2019-20	(\$865.8 million)	GF

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") considers implementation of this bill as routine, and does not require additional funding. This bill would not create significant administrative cost savings for the Department.

Fiscal Impact

This bill would significantly reduce General Fund revenue by \$485.3 million for Fiscal Year 2015, \$1,078.3 million for Fiscal Year 2016, \$805.6 million for Fiscal Year 2017, \$826.8 for Fiscal Year 2018, \$856.3 for Fiscal Year 2019, and \$865.8 million for Fiscal Year

2020. There would be a smaller revenue loss in Fiscal Year 2015 due to corporations ceasing to make estimated tax payments for the 2015 taxable year in April of 2015 and June of 2015.

Corporations would continue to make extension and tax payments, as well as receive refunds, for prior taxable years. The Department would also continue to receive compliance revenue from audit and collection activity. However, compliance revenue would be reduced in Fiscal Years 2016 through 2018 and would effectively cease in Fiscal Year 2019. Based on historical collections, it is estimated that compliance revenue would generate \$60 million for Fiscal Year 2016, \$40 million for Fiscal Year 2017, and \$20 million for Fiscal Year 2018. These amounts are included in the revenue estimates above.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

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.

A corporation’s taxable income is determined by allocation and apportionment when the income is derived from sources both within and without Virginia. Multistate corporations allocate and apportion federal taxable income after Virginia modifications are made to determine the amount of income attributable to Virginia. No allocation or apportionment is necessary when the entire business of a corporation is conducted or transacted within Virginia. Instead, the Virginia corporate income tax is imposed upon the entire Virginia taxable income of the corporation for each taxable year.

The corporate income tax has become a major revenue source for Virginia. According to the Department’s Annual Report for Fiscal Year 2013, the corporate income tax produced \$796.7 million in revenue. The corporate income tax produces the third highest amount of revenue behind the individual income tax and the state sales and use tax. Details about the amount of corporate income tax revenue collected annually are included in the chart on the following page.

Corporate Income Tax Revenue, Fiscal Years 2003 to 2013

Fiscal Year	Amount
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
2011	\$822,258,803
2012	\$859,922,840
2013	\$796,728,154

Not all business entities are subject to the corporate income tax. Banks and trust companies are subject to a bank franchise tax, insurance companies are subject to an insurance premiums license tax, and telecommunications companies and electric suppliers are subject to a minimum tax. Businesses organized as pass-through entities, such as partnerships, limited liability companies, and electing small business corporations ("S corporations"), are not taxed at the entity level; instead, the pass-through entities' individual partners, members, or shareholders are typically subject to the individual income tax. Sole proprietorships are also subject to the individual income tax.

For Taxable Year 2010, Virginia taxpayers filed over 184,000 pass-through entity returns, as compared to under 64,000 corporate income tax returns. In addition, according to the most recent IRS data published, there were 535,294 individual income tax returns filed for Taxable Year 2007 in Virginia by sole proprietorships. This number includes a broad range of businesses, from individuals selling products part-time, to tradesmen (such as plumbers, electricians, and carpenters) running a full-time business.

According to a 2010 JLARC report, "Review of Virginia's Corporate Income Tax System" (2010 House Document No. 3), "[n]early 70 percent of Virginia employers are not structured as C corporations and would therefore not benefit from the elimination of the [corporate income tax]." The report further provides that the inequities thus created among business entity types could "create an incentive for businesses operating solely or predominantly in Virginia to reorganize as C corporations strictly for tax purposes, which would cause an additional loss of State revenue currently collected through the individual income tax system."

Other States

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

Proposed Legislation

This bill would eliminate Virginia's corporate income tax by lowering the rate of tax to zero percent. Telecommunications companies and electric suppliers would still be subject to a minimum tax in lieu of the corporate income tax.

This bill would be effective for taxable years beginning on and after January 1, 2015.

Similar Legislation

House Bill 453 would exempt certain corporations from the Virginia corporate income tax by establishing a filing threshold, and would increase the threshold for making a declaration of estimated corporate income tax.

House Bill 1243 would reduce Virginia's corporate income tax rate from six percent to five percent for taxable years beginning on or after January 1, 2015.

cc : Secretary of Finance

Date: 1/20/2014 mjm
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