

DEPARTMENT OF TAXATION

2014 Fiscal Impact Statement

1. **Patron** James M. LeMunyon

3. **Committee** House Finance

4. **Title** Corporate Income Tax Exemption;
Declaration of Estimated Income Tax
Threshold

2. **Bill Number** HB 453

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would exempt corporations with Virginia taxable income not in excess of \$25,000 and gross revenues not in excess of \$500,000 from the corporate income tax.

This bill would also increase the threshold for making estimated corporate income tax payments from \$1,000 to \$1,500.

Both the \$25,000 Virginia taxable income exemption threshold and the \$1,500 threshold for making estimated income tax payments would be indexed for inflation using the Consumer Price Index for All Urban Customers (CPI-U).

This bill would be effective for taxable years beginning on and after January 1, 2015. The threshold amounts would be indexed for inflation for taxable years beginning on or after January 1, 2016.

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

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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	(\$840,000)	GF
2015-16	(\$5.13 million)	GF
2016-17	(\$5.20 million)	GF
2017-18	(\$5.25 million)	GF
2018-19	(\$5.28 million)	GF
2019-20	(\$5.39 million)	GF

8. Fiscal implications:

Administrative Cost

The Department has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, the Department considers implementation of this bill as “routine,” and does not require additional funding.

The Department will provide specific administrative costs on any legislation that is not “routine.” Additionally, the Department will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, the Department will identify the costs at that time.

Revenue Impact

This bill is estimated to have a negative General Fund revenue impact of \$840,000 in FY 2015, \$5.13 million in FY 2016, \$5.20 million in FY 2017, \$5.25 million in FY 2018, \$5.28 million in FY 2019, and \$5.39 million in FY 2020. Because the increased threshold would apply to corporations when determining whether they are required to make a declaration of estimated income tax during the last six months of FY 2015, the provision increasing the threshold for making estimated income tax payments would have a negative revenue impact beginning in FY 2015.

The provision providing a corporate income tax exemption would have a negative revenue impact beginning in FY 2016. Corporations would begin to account for the exemption on their Taxable Year 2015 returns, the majority of which would be filed in FY 2016. This bill would have no impact on the amount of minimum tax paid by corporations that are subject to the minimum tax.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Corporations Exempt from Virginia Taxation

Virginia does not currently provide a corporate income tax exemption based on the amount of a corporation’s Virginia taxable income. Virginia does exempt certain entities from the corporate income tax, the minimum tax on telecommunications companies, and the tax imposed on electric suppliers, pipeline distribution companies, gas utilities, and gas suppliers. Such corporations include:

- Public service corporations, to the extent they are subject to the license tax on gross receipts;

- Insurance companies to the extent they are subject to the Insurance Premiums License Tax and reciprocal or interinsurance exchanges that pay the Insurance Premiums License Tax to Virginia;
- State and national banks, banking associations, and trust companies to the extent they are subject to the Bank Franchise Tax;
- Credit unions organized under the laws of Virginia or the United States;
- S corporations;
- Certain nonprofit entities, except those organizations that have unrelated business income or other taxable income;
- Telephone companies chartered in Virginia that are exclusively a local mutual association and are not designated to accumulate profits for the benefit of, or pay dividends to, shareholders or members;
- Certain corporations that have contracted with a commercial printer for printing; and
- Foreign sales corporations and any income attributable to a foreign sales corporation.

Virginia Minimum Tax on Certain Corporations

Virginia imposes a minimum tax on certain entities if the imposed corporate income tax is less than the minimum tax imposed on such entities. Telecommunications companies, electric suppliers, and certain pipeline distribution companies, gas utilities, and gas suppliers are subject to such minimum taxes.

The minimum tax on telecommunications companies is imposed at a rate equal to 0.5 percent of gross receipts. This tax applies in cases where the corporate income tax would be less than the minimum tax. For purposes of the minimum tax, a telecommunications company includes the following:

- A telephone company or other person holding a certificate of convenience and necessity granted by the State Corporation Commission (“SCC”) authorizing telephone service,
- A person authorized by the Federal Communications Commission to provide commercial mobile service that includes cellular mobile radio communications services or broadband personal communications services,
- A person holding a certificate authorizing domestic telephone service and belonging to an affiliated group including a person holding a certificate of convenience and necessity granted by the SCC authorizing telephone service, and
- A telegraph company or other person operating the apparatus necessary to communicate by telegraph.

An electric supplier is generally subject to a minimum tax equal to 1.45 percent of its gross receipts for the calendar year that ends during the taxable year minus the state’s portion of the electric utility consumption tax billed to consumers. This tax applies in cases where the corporate income tax would be less than the minimum tax. Electric suppliers that are organized as pass-through entities are also subject to the minimum tax on electric suppliers, even though they would not otherwise be subject to the Virginia corporate income tax. For purposes of the minimum tax, an electric supplier is defined as

an incumbent electric utility in Virginia that, prior to July 1, 1999, supplied electric energy to retail customers located in an exclusive service territory established by the SCC.

Any electric supplier that is organized as a cooperative and is a nonprofit organization that is exempt from federal taxation is subject to the greater of the 1.45 percent minimum tax on certain electric suppliers, or a minimum tax equal to 6 percent of the modified net income that it derives from nonmember sales, reduced by any credits that may be used to offset such tax.

Virginia Declaration of Estimated Income Tax

Virginia requires every corporation that is subject to taxation to make a declaration of estimated income tax to the Department if its income tax liability for the taxable year, reduced by any allowable credits, can reasonably be expected to exceed \$1,000. The date by which a corporation must submit its declaration of estimated income tax varies depending on when the corporation first met the requirement to submit such a declaration. If the corporation met the requirements:

- Before the first day of the fourth month of the taxable year, the declaration must be filed on or before the fifteenth day of the fourth month of the taxable year;
- After the last day of the third month and before the first day of the sixth month of the taxable year, the declaration must be filed on or before the fifteenth day of the sixth month of the taxable year;
- After the last day of the fifth month and before the first day of the ninth month of the taxable year, the declaration must be filed on or before the fifteenth day of the ninth month of the taxable year; or
- After the last day of the eighth month and before the first day of the twelfth month of the taxable year, the declaration must be filed on or before the fifteenth day of the twelfth month of the taxable year.

Corporations that are required to make a declaration of estimated income tax are also required to make estimated income tax payments. Such payments must be paid in installments as follows:

- If the declaration is required to be filed by the fifteenth day of the fourth month of the taxable year, twenty-five percent of the estimated income tax must be paid on the fifteenth day of the fourth, sixth, ninth, and twelfth month of the taxable year;
- If the declaration is required to be filed by the fifteenth day of the sixth month of the taxable year, one-third of the estimated income tax must be paid on the fifteenth day of the sixth, ninth, and twelfth month of the taxable year;
- If the declaration is required to be filed by the fifteenth day of the ninth month of the taxable year, one-half of the estimated income tax must be paid on the fifteenth day of the ninth and twelfth month of the taxable year; or
- If the declaration is required to be filed by the fifteenth day of the twelfth month of the taxable year, 100 percent of the estimated income tax must be paid on the fifteenth day of the twelfth month of the taxable year.

Proposed Legislation

This bill would exempt corporations with Virginia taxable income not in excess of \$25,000 and gross revenues not in excess of \$500,000 from the corporate income tax. The \$25,000 and \$500,000 thresholds would apply on an aggregate basis for affiliated corporations that file a consolidated or combined return.

This bill would also increase the threshold for making a declaration of estimated corporate income tax from \$1,000 to \$1,500.

Both the \$25,000 Virginia taxable income exemption threshold and the \$1,500 threshold for making a declaration of estimated income tax would be indexed for inflation using the Consumer Price Index for All Urban Customers (CPI-U). These amounts would be indexed annually by an amount equal to the percentage increase in the index for all items from July 1 through June 30 of the year immediately preceding the affected taxable year.

This bill would be effective for taxable years beginning on and after January 1, 2015. The threshold amounts would be indexed for inflation for taxable years beginning on or after January 1, 2016.

Similar Bills

House Bill 1243 would reduce the corporate income tax rate from 6 percent to 5 percent, effective for Taxable Year 2015 and thereafter.

Senate Bill 619 would eliminate the corporate income tax, effective for Taxable Year 2015 and thereafter.

cc : Secretary of Finance

Date: 1/23/2014 MTH
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