

DEPARTMENT OF TAXATION

2019 Fiscal Impact Statement

1. **Patron** John J. Bell

3. **Committee** House Finance

4. **Title** Individual Income Tax Deduction; Energy Saving Products

2. **Bill Number** HB 2070

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would permit an individual income tax deduction for purchases of at least \$1,000, including installation costs, of certain energy saving products during the taxable year. No taxpayer would be permitted to claim a deduction in excess of \$10,000 per taxable year. For purposes of the deduction, "energy saving products" would include solar panels or any other products designated as meeting or exceeding the requirements under the Energy Star program.

This bill would be effective for taxable years beginning on and after January 1, 2019.

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

Item(s): 273 and 275, Department of Taxation

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

7a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2021-22	\$87,945	1	GF
2022-23	\$87,402	1	GF
2023-24	\$89,565	1	GF
2024-25	\$92,731	1	GF

8. **Fiscal implications:**

Administrative Costs

If the Department of Taxation ("the Department") is able to implement this legislation by the effective date, it would incur estimated costs of \$87,945 in Fiscal Year 2022, \$87,402 in Fiscal Year 2023, \$89,565 in Fiscal Year 2024 and \$92,731 in Fiscal Year 2025. These costs would be for purposes of hiring one full-time position to assist with compliance.

However, due to uncertainty about the systems and processing changes that may be required for the 2018 and 2019 income tax filing seasons, it is possible that the Department may not have the ability to implement the changes set forth in this bill by the

proposed effective date. During 2017, Congress enacted the Tax Cuts and Jobs Act, which made substantial changes to federal tax law. At this time, it is uncertain what Virginia tax policy changes will be adopted in reaction to the federal law. Accordingly, the Department will reevaluate its costs once action is taken and may request additional funding or an amendment to delay the effective date of this legislation.

Fiscal Impact

This bill would have an unknown, potentially significant, negative General Fund revenue impact beginning in Fiscal Year 2020. There are currently thousands of products that have been designated under the Energy Star program and, thereby, would qualify for this deduction. As an example, the portion of this estimate related to sales of Energy Star designated refrigerators, clothes washers, air conditioners, and dishwashers, this bill would have an estimated negative revenue impact of approximately \$18.7 million per taxable year.

The portion of the deduction related to sales of solar panels would have an estimated negative revenue impact of approximately \$1 million in Fiscal Year 2019. It is anticipated that purchases of solar panels will increase significantly over the next several years. Therefore, the negative revenue impact would grow to approximately \$5.3 million in Fiscal Year 2025.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Federal Business Energy Investment Tax Credit

Under federal law, businesses may claim a tax credit equal to 30 percent of the costs of qualified fuel cell property; equipment which uses solar energy to generate electricity, heat or cool a structure, or provide solar process heat; equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight; and qualified small wind energy property.

Businesses may claim a credit equal to 10 percent of the costs of any other energy property. Other types of energy property include equipment used to produce, distribute, or use energy derived from a geothermal deposit; qualified microturbine property; combined heat and power system property; and equipment which uses the ground or ground water as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure.

To qualify for the credit, the original use of the property must begin with the taxpayer, or the property must be constructed by the taxpayer. Additionally, the property must be depreciable or amortizable and the property must meet the performance and quality standards set forth in the Treasury Regulations.

No credit is allowed with respect to property for the taxable year in which a grant is made under § 1603 of the American Recovery and Reinvestment Tax Act of 2009 or any subsequent taxable year. A recapture provision applies if a credit is determined for any taxable year before which a grant is made.

The credit was scheduled to be reduced to 10 percent after December 31, 2016. However, on December 18, 2015, the President signed into law the Consolidated Appropriations Act of 2016 (H.R. 2029). Pursuant to that legislation, the tax credit will remain at 30 percent for qualifying solar projects for which construction begins prior to January 1, 2020 and which are placed in service before January 1, 2024. The credit will be reduced to:

- 26 percent for projects for which construction begins in 2020 and which are placed in service before January 1, 2024;
- 22 percent for projects for which construction begins in 2021 and which are placed in service before January 1, 2024; and
- 10 percent for projects for which construction begins after December 31, 2021 or which are placed in service after January 1, 2024.

Virginia Solar Energy Tax Incentives

Local Property Tax Exemptions for Solar Equipment

Article X, § 6 of the *Constitution of Virginia* lists all property that may be exempted from taxation by general law. Article X, § 6 (d) provides that the General Assembly may define as a separate subject of taxation any property used primarily for the purpose of abating or preventing air or water pollution or for the purpose of transferring or storing solar energy and by general law may allow the governing body of any locality to exempt such property from taxation, or by general law may directly exempt such property from taxation. Additionally, Article X, § 6 provides that exemptions of property from taxation shall be strictly construed.

Exemptions for Commercial Solar Equipment

Legislation enacted during the 2014 Session provided a mandatory local property tax exemption for solar photovoltaic systems equaling 20 megawatts or less owned or operated by a business.

Legislation enacted during the 2016 Session made several changes to the exemption effective January 1, 2017:

- The full exemption was limited to 1) projects equaling 20 megawatts or less for which an initial interconnection request form is filed on or before December 31, 2018; 2) projects equaling 20 megawatts or less that serve a public institute of higher education or a private college in the Commonwealth; and 3) projects

equaling 5 megawatts or less for which an initial interconnection request form is filed on or after January 1, 2019.

- The exemption was expanded to provide an exemption for 80 percent of the assessed value for 1) projects greater than 20 megawatts first in service on or after January 1, 2017, for which an initial interconnection request form was filed after January 1, 2015; and 2) projects greater than 5 megawatts for which an initial interconnection request form is filed on or after January 1, 2019.
- A sunset date was provided for the exemption for projects greater than 20 megawatts so that it does not apply to projects on which construction begins after January 1, 2024.

Exemptions for Residential Solar Equipment

All localities are authorized to grant a local option property tax exemption for solar energy equipment certified by the local building department to be designed and used primarily for the purpose of collecting, generating, transferring, or storing thermal or electric energy.

Retail Sales and Use Tax

Under current law, a sales tax exemption for residential solar energy equipment is not available. Legislation in the 2016 General Assembly Session provided a sales tax exemption for machinery and tools used by a public service corporation to generate energy derived from sunlight. The legislation also provided a sales tax exemption for solar energy property certified to the Department as pollution control property by the DMME.

Energy Efficiency Tax Incentives

Income Tax Deduction for Sales Tax Paid on Certain Energy Efficient Products

Virginia provides an income tax deduction for sales tax paid on purchases of certain energy efficient products including, but not limited to, clothes washers, dishwashers, certain fuel cells, heat pumps, and programmable thermostats. The amount of the deduction is limited to \$500 for individuals and married taxpayers filing separate returns, and \$1,000 for married taxpayers filing a joint return.

Sales Tax Holiday

Virginia allows an annual three-day “sales tax holiday” during which certain products may be purchased without paying sales tax. Such products include Energy Star and WaterSense products that are \$2,500 or less and are purchased for noncommercial home or personal use.

Other State Tax Incentives for Energy Efficiency

Individual income tax credits for energy efficiency and other “green” initiatives are available in 22 states. Many state exempt energy efficient products from sales tax or have

sales tax holidays for Energy Star products. In addition, 32 states have property tax exemptions for renewable energy.

Proposed Legislation

This bill would permit an individual income tax deduction for purchases of at least \$1,000, including installation costs, of certain energy saving products during the taxable year. No taxpayer would be permitted to claim a deduction in excess of \$10,000 per taxable year. For purposes of the deduction, "energy saving products" would include solar panels or any other products designated by the US Environmental Protection Agency and the US Department of Energy as meeting or exceeding the requirements under the Energy Star program. No taxpayer would be permitted to claim this deduction and the deduction for sales tax paid on certain energy efficient products.

This bill would be effective for taxable years beginning on and after January 1, 2019.

Similar Bills

House Bill 2165, **House Bill 2460**, and **Senate Bill 1496** would provide a tax credit for the construction, purchase, or leasing of solar energy equipment that is placed in service on certain nonresidential real property.

cc : Secretary of Finance

Date: 1/27/2019 RWC
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