

# DEPARTMENT OF TAXATION

## 2019 Fiscal Impact Statement

1. **Patron** Brenda L. Pogge

2. **Bill Number** HB 2708

3. **Committee** House Rules

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

4. **Title** Individual Income Tax; Claiming Itemized  
Deductions Regardless of Election on  
Federal Return

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

The bill would provide that a taxpayer may elect either to claim the Virginia standard deduction or to itemize deductions on his or her Virginia income tax return, regardless of whether the taxpayer elected for the taxable year to itemize deductions on his or her federal income tax return.

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

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

Item(s): Page 1, Revenue Estimates  
273 and 275, Department of Taxation

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

#### 7a. **Expenditure Impact:**

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Positions</b></i>	<i><b>Fund</b></i>
2019-20	\$1,017,712	10	GF
2020-21	\$893,582	10	GF
2021-22	\$893,582	10	GF
2022-23	\$893,582	10	GF
2023-24	\$893,582	10	GF
2024-25	\$893,582	10	GF

#### 7b. **Revenue Impact:**

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Fund</b></i>
2019-20	(\$378.0 million)	GF
2020-21	(\$257.8 million)	GF
2021-22	(\$266.0 million)	GF
2022-23	(\$275.9 million)	GF
2023-24	(\$285.3 million)	GF
2024-25	(\$292.7 million)	GF

## **8. Fiscal implications:**

### Administrative Costs

This bill would result in administrative costs to the Department of Taxation ("the Department") of \$1,017,712 in Fiscal Year 2020 and \$893,582 in Fiscal Year 2021 and each fiscal year thereafter. Such funding would include costs for hiring five new full-time employees for customer service to respond to taxpayer calls arising from this bill and hiring five new full-time employees for compliance purposes.

### Revenue Impact

This bill would result in a negative General Fund revenue impact of \$378.0 million in Fiscal Year 2020; \$257.8 million in Fiscal Year 2021; \$266.0 million in Fiscal Year 2022; \$275.9 million in Fiscal Year 2023; \$285.3 million in Fiscal Year 2024; and \$292.7 million in Fiscal Year 2025. If this bill is enacted, the budget would need to be adjusted to reduce the revenue estimate by \$378.0 million in Fiscal Year 2020. As the Introduced Executive Budget assumes advancement of the date of conformity, these estimates assume that Virginia's date of conformity will be advanced to December 31, 2018 and that Virginia will conform to the TCJA

## **9. Specific agency or political subdivisions affected:**

Department of Taxation

## **10. Technical amendment necessary: No.**

## **11. Other comments:**

### Federal Law

When completing their federal income tax return, taxpayers are generally allowed to elect to claim either the total amount of their itemized deductions or the flat amount of their standard deduction. Taxpayers will generally choose to deduct the greater of the two amounts.

### *Federal Standard Deduction*

The standard deduction is a fixed dollar amount that reduces a taxpayer's taxable income and varies according to their filing status. The current amount of the federal standard deduction is \$12,000 for single taxpayers; \$18,000 for heads of household; and \$24,000 for married taxpayers filing jointly.

The federal standard deduction amounts have increased significantly since 1988. The federal Tax Reform Act of 1986 increased the standard deduction amount for Taxable Year 1988 to \$3,000 for individuals; \$4,400 for heads of household; and \$5,000 for married taxpayers filing jointly. The Act also required, beginning in Taxable Year 1989, the Internal Revenue Service to adjust the amount of such deduction annually for inflation based on the percentage change in the Consumer Price Index for Urban Consumers

("CPI-U") for the preceding calendar year. Because of these inflation adjustments, the federal standard deduction increased annually from Taxable Year 1988 through Taxable Year 2002. For Taxable Year 2002, the standard deduction amounts were \$4,700 for individuals; \$6,900 for heads of household; and \$7,850 for married taxpayers filing jointly.

The federal Jobs and Growth Tax Relief Reconciliation Act of 2003 increased the standard deduction for married couples filing jointly to \$9,500, which was equal to twice the standard deduction for single taxpayers. This was intended to eliminate the standard deduction marriage penalty. From 2003 until 2017, the federal standard deduction continued to increase annually due to inflation adjustments. For Taxable Year 2017, the standard deduction amounts were \$6,350 for individuals; \$9,350 for heads of household; and \$12,700 for married taxpayers filing jointly.

On December 22, 2017, Congress enacted the TCJA, which substantially increased the federal standard deduction amounts beginning with Taxable Year 2018 as follows:

- From \$6,350 to \$12,000 for single taxpayers;
- From \$9,350 to \$18,000 for heads of household; and
- From \$12,700 to \$24,000 for married taxpayers filing jointly.

In addition, beginning with Taxable Year 2019, the Internal Revenue Service is required to adjust the standard deduction amount based upon a new inflation measure, chained CPI-U.

Like the majority of the individual provisions of the TCJA, the increase in the federal standard deduction is currently scheduled to sunset after December 31, 2025, and revert to its pre-2018 amounts. Future legislation would be required to make such increases effective beyond Taxable Year 2025. However, the 2025 sunset date does not apply to the TCJA's substitution of a new inflation measure for indexing the federal standard deduction and other provisions.

### *Federal Itemized Deductions*

In lieu of deducting the standard deduction amount, taxpayers may elect to claim up to approximately a dozen separate deductions, referred to as "itemized deductions," on their federal return to the extent that they qualify for such deductions. The rationale for each itemized deduction is generally to take account of large or unusual personal expenditures that affect a taxpayer's ability to pay. Certain itemized deductions are also provided as a way of encouraging certain desired behaviors and activities. The most common expenses that may be claimed as an itemized deduction include:

- Home mortgage interest;
- State and local income taxes or sales taxes (but not both);
- Real estate and personal property taxes;
- Gifts to charities;
- Casualty or theft losses;
- Unreimbursed medical expenses; and
- Unreimbursed employee business expenses.

The TCJA included a number of provisions that greatly limit or repeal certain federal itemized deductions.

### Virginia Law

When completing their Virginia income tax returns, taxpayers are bound by the election they made for federal purposes regarding whether to claim a standard deduction or to itemize their deductions. Therefore, if they claimed the standard deduction on their federal income tax return, they are not allowed to claim itemized deductions on their Virginia return. In contrast, if they claimed itemized deductions on their federal income tax return, they are not allowed to claim the standard deduction on their Virginia return.

### *Virginia's Standard Deduction*

Taxpayers that do not itemize their deductions for federal purposes are permitted to claim a standard deduction on their Virginia income tax returns. The current amount of the Virginia standard deduction is \$3,000 for single individuals and \$6,000 for married persons filing jointly. Virginia's standard deduction amounts increased from Taxable Year 1988 to the present, as shown below:

<b>Year</b>	<b>Virginia Standard Deduction for Single Taxpayers</b>	<b>Virginia Standard Deduction for Married Persons Filing Jointly</b>
1987	\$2,000	\$2,000
1988	\$2,700	\$2,700
1989-2004	\$3,000	\$5,000
2005-present	\$3,000	\$6,000

During the 2005 Session, the General Assembly increased the standard deduction for married persons filing jointly from \$5,000 to \$6,000. This was intended to eliminate the standard deduction marriage penalty at the state level, similar to how this issue was addressed at the federal level. Since 2005, the Virginia standard deduction amounts have remained at \$3,000 for single taxpayers and \$6,000 for married taxpayers filing jointly.

Prior to 1987, the Virginia standard deduction was not a fixed amount. For example, in Taxable Year 1986, the Virginia standard deduction was 15 percent of a taxpayer's federal adjusted gross income with a \$1,300 minimum and a \$2,000 maximum.

### *Virginia Itemized Deductions*

Taxpayers that elect to itemize their deductions for federal purposes are permitted to claim such deductions on their Virginia income tax return as well. The amount of itemized deductions that may be claimed on such return is equal to the:

- Federally allowable amount of itemized deductions, *minus*
- Amount claimed as a federal deduction for income taxes paid to Virginia or any other state, locality, foreign country, or other taxing jurisdiction, *plus*

- Amount needed to increase the amount deducted federally for charitable contribution transportation to 18¢ per mile.

### Other States

Of the 42 other states that impose an individual income tax, 21 states and the District of Columbia allow taxpayers to claim federal itemized deductions on their state returns. Eleven of these states (Colorado, Georgia, Maine, Maryland, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Carolina, and Vermont) and the District of Columbia only allow taxpayers to claim itemized deductions on their state return if they itemized for federal purposes. The remaining ten states (Arizona, Delaware, Hawaii, Idaho, Iowa, Kansas, Minnesota, Montana, New York, and Oregon) allow taxpayers to elect to itemize on their state return, regardless of whether they itemized for federal purposes.

The remaining 21 states that impose an individual income tax do not generally allow taxpayers to claim federal itemized deductions on their state return. Instead, such states have generally established their own rules for determining the state tax liability that may use state-specific credits or deductions that are substantially different from the federal itemized deduction structure.

### Proposed Legislation

The bill would provide that a taxpayer may elect either to claim the Virginia standard deduction or to itemize deductions on his or her Virginia income tax return, regardless of whether the taxpayer elected for the taxable year to itemize deductions on his or her federal income tax return.

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

### Similar Bills

**House Bill 1618** and **Senate Bill 1237** are similar to this bill, except that they would be effective for Taxable Year 2018 and thereafter.

**House Bill 1851**, **House Bill 2110**, and **Senate Bill 1225** are identical bills that would increase the standard deduction to \$6,000 for a single individual and \$12,000 for married persons filing jointly; index the standard deduction for inflation; and make several other tax policy changes.

**House Bill 2529** would allow a taxpayer to elect either to claim the standard deduction or to itemize his or her deductions, regardless their federal election; would increase the standard deduction to \$4,000 for a single individual and to \$8,000 for married persons filing jointly; and make several other tax policy changes.

**House Bill 1980** would increase the standard deduction to \$6,000 for single individuals and \$12,000 for married persons filing jointly and make other tax policy changes.

**House Bill 2086** would increase the standard deduction to \$4,500 for single individuals and to \$9,000 for married persons filing jointly, index such deduction for inflation; would deconform from the provision of TCJA that suspended the overall limitation on itemized deductions; and would make other tax policy changes.

**House Bill 2673** would allow a taxpayer to elect either to claim the standard deduction or to itemize his or her deductions, regardless their federal election; would increase the standard deduction to \$3,500 for single individuals and \$7,000 for married persons filing jointly; and make several other tax policy changes.

**House Bill 2765** would increase the standard deduction to \$3,570 for single individuals and \$7,500 for married persons filing jointly, and make other tax policy changes.

**Senate Bill 1211** would increase the standard deduction to \$6,000 for single individuals and \$12,000 for married persons filing jointly; index such deduction for inflation; and make other tax policy changes.

**Senate Bill 1443** and **Senate Bill 1631** are identical bills that would increase the standard deduction to \$6,000 for a single individual and \$12,000 for married persons filing jointly; index the standard deduction for inflation; and make several other tax policy changes.

**Senate Bill 1531** would increase the standard deduction to \$12,000 for a single individual and \$24,000 for married persons filing jointly.

**Senate Bill 1657** would provide a nonrefundable credit of \$250 for a single individual and \$500 for married persons filing jointly only if the taxpayer(s) did not itemize for federal income tax purposes.

cc : Secretary of Finance

Date: 1/27/2019 JJS  
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