

DEPARTMENT OF TAXATION

2020 Fiscal Impact Statement

1. **Patron** Bill R. DeSteph, Jr.

3. **Committee** Senate Finance and Appropriations

4. **Title** Virginia Beach Tragedy; Tax Relief;
Emergency

2. **Bill Number** SB 93

House of Origin:

X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide an individual income tax subtraction for any relief payment received by (i) an individual who died or was wounded as a result of the Virginia Beach mass shooting or (ii) the parent guardian, child, or spouse of such individual. This subtraction would only apply to the extent that such payment is included in the taxpayer's federal adjusted gross income.

This bill would also provide an individual and corporate income tax deduction for any amount donated to certain entities that provide relief payments to a victim of the Virginia Beach mass shooting, to the extent that such relief payment is not eligible to be deducted for federal income tax purposes. This bill would provide that if a taxpayer made a relief payment prior to the enactment of this bill that would have been eligible for this deduction, such payment is deductible for the taxable year in which it was made.

This bill would exempt individuals who died as a result of the Virginia Beach mass shooting from the state probate tax, and the probate tax that may be imposed by Virginia cities or counties. This bill would require the refund of any state or local probate taxes paid prior to the enactment of this bill on the probate of a will or grant of administration of the estate of an individual who died or was wounded as a result of the Virginia beach mass shooting.

This bill contains an emergency clause which states that it would be in force from its passage.

6. **Budget amendment necessary:** No.

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

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

This bill would have a minimal unknown negative impact on General Fund revenue beginning in Fiscal Year 2021. This bill could also have a minimal, unknown negative impact on certain localities to the extent that a locality imposes Virginia's optional local probate tax and a victim of the Virginia Beach mass shooting would otherwise be subject to such tax.

The portion of this bill providing a subtraction for certain payments to Virginia Beach mass shooting victims would have no impact. Federal law treats such payments as gifts that are exempt from federal income taxation. Because Virginia currently conforms to this provision of federal law and these payments are already exempt from federal and state income tax, it is unlikely that any taxpayer would claim this subtraction.

The portion of this bill providing a Virginia-specific deduction for certain donations made on behalf of Virginia Beach mass shooting victims would have a minimal, unknown negative impact on General Fund revenues beginning in Fiscal Year 2021. The federal Virginia Beach Strong Act provides that these donations will generally qualify for the federal charitable contributions deduction. As the Governor's Introduced Executive Budget assumes that Virginia will advance the date of conformity and conform to this federal legislation, the deduction proposed by this bill would have no impact to the extent that such donations are already deductible under the federal Virginia Beach Strong Act.

This bill would allow taxpayers who do not itemize their deductions to claim a state-specific deduction for eligible donations on behalf of Virginia Beach mass shooting victims. Generally, federal law limits the charitable contributions deduction to individuals who elect to itemize their deductions. As a result, the primary taxpayers expected to claim this bill's state-specific deduction would be individuals who do not itemize their deductions and made an otherwise eligible donation on behalf of Virginia Beach mass shooting victims. Because it is unknown to what extent non-itemizers have made or will make donations eligible for the Virginia-specific deduction, the negative General Fund revenue impact of this portion of the bill is unknown, but is expected to be minimal.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Federal Tax Treatment of Charitable Contributions

Recipients of charitable contributions are not generally subject to income taxation with respect to such contributions. Instead, charitable contributions are treated as a gifts, the receipt of which is exempt from federal income taxation. For recipients, this is the case regardless of whether the contribution is deductible by the person making the donation.

For federal income tax purposes, a taxpayer may claim a deduction for making a charitable contribution to a qualified organization. Because Virginia generally conforms to federal itemized deductions, taxpayers may claim a deduction for their charitable contributions on

their Virginia income tax return to the extent they were eligible for such deduction for federal income tax purposes.

To qualify for tax-exempt status a qualified organization is required to show that it is organized and operated exclusively for charitable purposes (“the charitable purposes requirement”), that it will assist a large enough or sufficiently indefinite class so that it is providing a public rather than a private benefit, and meet several other requirements. Therefore, qualified organizations seeking to gain or maintain tax-exempt status are generally prohibited from making payments to specific individuals. Doing so may jeopardize the organization’s tax-exempt status and may preclude donors from claiming a deduction with respect to contributions to such organization.

Virginia Beach Strong Act

On December 20, 2019, the Virginia Beach Strong Act (H. R. 4566) was signed into law and provides an exception to the charitable purposes requirement for the Virginia Beach mass shooting. This legislation provides that a cash contribution made specifically for the relief of the families of the dead or wounded victims of the Virginia Beach mass shooting qualifies for the charitable contributions deduction. In addition, this legislation protects the tax-exempt status of qualified organizations by deeming that certain payments made by a tax-exempt organization to the spouse or dependent of the dead or wounded victims of the Virginia Beach tragedy will be treated as related to such organization’s tax-exempt purpose and not for the benefit of any private individual.

Virginia currently conforms to the Internal Revenue Code as of December 31, 2018. Therefore, to conform to the provisions of the Virginia Beach Strong Act, Virginia would be required to enact legislation advancing its date of conformity to a date on or after December 20, 2019.

Virginia Probate Tax

A probate tax is imposed on the probate of most wills and grants of administration, and applies to property in Virginia. No tax is imposed on estates valued at \$15,000 or less. The tax is assessed at a rate of ten cents per \$100 on estates valued at more than \$15,000, including the first \$15,000 of assets. For example, the tax on an estate valued at \$16,000 is \$16.00.

Localities may also impose a local probate tax equal to 1/3 of the state probate tax when probating

Proposed Legislation

This bill would provide an individual income tax subtraction for any relief payment received by (i) an individual who died or was wounded as a result of the Virginia Beach mass shooting or (ii) the parent guardian, child, or spouse of such individual. This subtraction would only apply to the extent that such payment is included in the taxpayer’s federal adjusted gross income.

“Relief payment” would be defined as any amount paid, directly or indirectly, to a victim on account of the Virginia Beach mass shooting, provided that the payor (i) coordinates with the City of Virginia Beach to identify victims and distribute payments or (ii) pays such amount to a corporation that coordinates with the City of Virginia Beach to identify victims and distribute payments.

“Victim” would be defined as (i) an individual who died or was wounded as a result of the Virginia Beach mass shooting or (ii) the parent, guardian, child, or spouse of such individual.

“Virginia Beach mass shooting” would be defined as the mass shooting that occurred on May 31, 2019, at the Virginia Beach Municipal Center in the City of Virginia Beach.

This bill would also would provide an individual income tax deduction and a corporate income tax subtraction for any amount donated to certain entities that provide relief payments to a victim of the Virginia Beach mass shooting, to the extent that such relief payment is not eligible to be deducted for federal income tax purposes. This bill would provide that if a taxpayer made a relief payment prior to the enactment of this bill that would have been eligible for this deduction, such payment is deductible for the taxable year in which it was made. An individual taxpayer would be permitted to claim this deduction on their Virginia return even if they elected to claim the standard deduction on their Virginia return and were, therefore, unable to claim the charitable contributions deduction on their federal income tax return.

This bill would exempt individuals who died as a result of the Virginia Beach mass shooting from the state probate tax, and the probate tax that may be imposed by Virginia cities or counties. This bill would require the refund of any state or local probate taxes paid prior to the enactment of this bill on the probate of a will or grant of administration of the estate of an individual who died or was wounded as a result of the Virginia beach mass shooting.

This bill contains an emergency clause which states that it would be in force from its passage.

Similar Legislation

House Bill 53 is identical to this bill but does not contain an emergency clause.

House Bill 839 would provide an exemption from state and local probate taxes for individuals who died as a result of the Virginia Beach shooting.

House Bill 1413 and **Senate Bill 582** would advance Virginia’s date of conformity to December 31, 2019, which would allow Virginia to conform to the federal Virginia Beach Strong Act.

cc : Secretary of Finance

Date: 1/19/2020 JLOF
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