

2021 SPECIAL SESSION I

ENROLLED

HOUSE JOINT RESOLUTION NO. 563

Directing the Division of Legislative Services, in conjunction with the Department of Taxation, to establish a work group to assess the feasibility of transitioning to a unitary combined reporting system for corporate income tax purposes.

Agreed to by the House of Delegates, January 29, 2021
Agreed to by the Senate, February 23, 2021

WHEREAS, almost all corporations conduct business beyond the confines of a single state; and
WHEREAS, it is common for corporations to be engaged in multiple businesses and to utilize different entities, subsidiaries, and affiliates in the conduct of their operations; and

WHEREAS, of the 44 states and the District of Columbia that levy a corporate income tax, 29 have adopted unitary combined reporting to treat multistate members and operations of unitary business enterprises as if they were a single company in the determination of the amount of corporate tax liability under the state's corporate income tax; and

WHEREAS, 13 of these 29 states have changed to unitary combined reporting in the last 15 years; and

WHEREAS, Virginia is one of the 20 states that treat each corporation as a separate taxpayer in the determination of corporate tax liability; and

WHEREAS, under separate filing, Virginia generally requires corporations to use a three-factor formula of property, payroll, and double-weighted sales in Virginia to apportion the corporate tax liability with nexus in Virginia; and

WHEREAS, other special apportionment provisions have been adopted by the General Assembly for various entities, including motor carriers, financial corporations, construction corporations, railway companies, manufacturing companies, retail companies, and taxpayers with enterprise data center operations; and

WHEREAS, changing to unitary combined filing will affect corporations differently; and

WHEREAS, adopting unitary combined reporting will require changes to compliance oversight and administration by the Department of Taxation; and

WHEREAS, combining losses of affiliated taxpayers may offset taxable profits of an entity with Virginia nexus resulting in reduced Virginia corporate tax revenue or, in contrast, combining the contribution of business activities in other states with affiliates in Virginia may increase Virginia corporate tax revenue; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Division of Legislative Services, in conjunction with the Department of Taxation, be directed to establish a work group to assess the feasibility of transitioning to a unitary combined reporting system for corporate income tax purposes. The work group of stakeholders shall assess the administrative feasibility, the impact on major classifications of corporations operating in Virginia, the impact on corporate expansion within and into Virginia, and the projected impact on Virginia's tax revenue as a result of adopting corporate income tax unitary combined reporting. The Secretary of Finance, the Secretary of Commerce and Trade, and the Chairmen of the House Committee on Finance and the Senate Committee on Finance and Appropriations shall be represented on the work group and shall participate in selecting its members.

The work group shall identify and make recommendations as to any legislation necessary should Virginia transition to unitary combined reporting, including the repeal of obsolete provisions and amendments to existing provisions of the Code of Virginia. The work group also shall identify the different legal authorities and requirements that would apply to corporations under a unitary combined reporting system and identify and solicit input from corporations that may be affected by such a transition. The work group shall also identify, to the extent possible, the fiscal impact to Virginia of transitioning to a unitary combined corporate reporting system.

The work group shall submit a summary of its findings, recommendations, and a draft of any recommended legislation to the Chairmen of the House Committee on Finance and the Senate Committee on Finance and Appropriations no later than November 1, 2021.

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