

DEPARTMENT OF TAXATION

2022 Fiscal Impact Statement

1. **Patron** Sam Rasoul

3. **Committee** House Finance

4. **Title** Individual Income Tax: Family Caregiver Deduction

2. **Bill Number** HB 291

House of Origin:

 Introduced

 X **Substitute**

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide an individual income tax deduction for expenses incurred by a family caregiver that are directly related to the care of an eligible family member. The amount of the deduction would be equal to 50 percent of the eligible expenditures incurred by the family caregiver. No family caregiver would be permitted to deduct more than \$1,000 in eligible expenses for a taxable year.

This bill would be effective for taxable years beginning on and after January 1, 2022, but before January 1, 2027.

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

Item(s): Page 1, Revenue Estimates

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 an unknown negative General Fund revenue impact beginning in Fiscal Year 2023. It is uncertain to what extent family caregivers would qualify for and claim this deduction.

According to data for Taxable Year 2018, the existing Virginia Deduction for Child and Dependent Care Expenses was claimed on more than 200,000 returns in a total amount of \$557.7 million. Based on federal and state income tax data, approximately 127,000 returns were below the income limitations specified by this bill. If it is assumed that 20 percent of these returns had expenses for family members that would qualify under this

legislation, this bill could have an estimated annual negative General Fund revenue impact of between \$1.3 million and \$1.4 million per fiscal year. The actual impact would vary depending on how many taxpayers actually qualify and for claim this deduction.

In addition, this bill would prohibit taxpayers from claiming the deduction this bill would provide and the existing Virginia Deduction for Child and Dependent Care Expenses for the same expenditures. It is unclear to what extent these two deductions would overlap and taxpayers would be impacted by this prohibition.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

On Lines 145-147, this bill would prohibit a taxpayer from claiming the proposed deduction if they received any compensation or reimbursement for eligible expenditures. If the Patron instead intends that this prohibition apply to the extent such expenses are compensated or reimbursed, then we suggest a technical amendment to address this issue.

11. Other comments:

Federal Tax Incentives for Caregivers

Medical Expense Deduction

For Taxable Year 2021, taxpayers are permitted to deduct expenses for medical care for themselves, their spouse, and their dependents that exceed 7.5 percent of their federal adjusted gross income. Deductible medical expenses are generally those amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body. Taxpayers may also deduct transportation expenses primarily for and essential to medical care; expenses for qualified long-term care services, or expenses for insurance covering medical care or for any qualified long-term care insurance contract.

For Virginia income tax purposes, taxpayers are permitted a deduction to the extent such expenses exceed 10 percent of their federal adjusted gross income.

Credit for Qualifying Dependents

A taxpayer is permitted to claim a nonrefundable income tax credit for any of the taxpayer's dependents who are not qualifying children under age 17. For Taxable Year 2021, the amount of the credit is equal to \$3,000 per qualifying dependent age 17 or younger and up to \$3,600 per qualifying dependent child under age 6. Generally, this credit will apply to qualifying children who are past child tax credit age, or qualifying relatives, such as dependent parents. The credit is phased out beginning with taxpayers with federal adjusted gross income of \$200,000 (\$400,000 for married persons filing jointly).

Child and Dependent Care Expenses Credit

For Taxable Year 2021, taxpayers are permitted to claim a credit of up to 50 percent of the first \$8,000 dollars (\$16,000 for two or more qualified persons) in qualified child and dependent care expenses. Qualified child and dependent care expenses include certain household service and expenses for care of the qualified person. A taxpayer may claim this credit only if the care was provided so the taxpayer could work or look for work, the care was for one or more qualifying persons, and the person providing the care was not the taxpayer's spouse; the parent of the taxpayer's qualifying child; a dependent of the taxpayer's; or the taxpayer's child who is either a dependent of the taxpayer's or under the age of 19 by the end of the taxable year.

Virginia Deduction for Child and Dependent Care Expenses

Virginia permits a taxpayer that is eligible to claim the federal child and dependent care expenses credit to claim a deduction in an amount equal to the amount of employment-related expenses upon which the federal credit is based for household and dependent care services necessary for gainful employment.

Proposed Legislation

This bill would provide an individual income tax deduction for expenses incurred by a family caregiver that are directly related to the care of an eligible family member. The amount of the deduction would be equal to 50 percent of the eligible expenditures incurred by the family caregiver. No family caregiver would be permitted to deduct more than \$1,000 in eligible expenses for a taxable year.

"Activities of daily living" or "ADLs" would be defined as "bathing, dressing, toileting, transferring or moving, bowel control, bladder control, and eating or feeding."

"Eligible expenditures" would be defined as "expenses incurred by a family caregiver that are directly related to the care of an eligible family member, including (i) improvements or alterations to the family caregiver's primary residence to permit the eligible family member to remain mobile, safe, and independent; (ii) the purchase or lease of equipment or technology that assists the eligible family member in carrying out one or more activities of daily living; or (iii) expenditures related to hiring a home care aide or personal care attendant, respite care, adult day care, transportation, and legal or financial services."

Eligible expenditures would not include expenses incurred in carrying out general household maintenance, including painting, plumbing, electrical repairs, or exterior maintenance.

"Eligible family member" would be defined as "an individual who (i) is at least 18 years of age during the taxable year; (ii) requires assistance with one or more ADLs, as certified by a licensed physician, physician assistant, nurse practitioner, or registered nurse; and (iii) qualifies as a dependent of the family caregiver, is related by blood, marriage, or adoption to the family caregiver, or is in the care of the family caregiver as a legally appointed guardian."

"Family caregiver" would be defined as "an individual, or in the case of married persons, an individual and his spouse, who (i) provides care to one or more eligible family members during the taxable year and (ii) has federal adjusted gross income that is no greater than \$100,000 for an individual or \$200,000 for married persons."

A taxpayer would be ineligible for this deduction if they received any compensation or reimbursement for eligible expenditures and to the extent they claim the Virginia Deduction for Child and Dependent Care Expenses for the same expenditures.

This bill would be effective for taxable years beginning on and after January 1, 2022, but before January 1, 2027.

Similar Bills

House Bill 720, **Senate Bill 632**, and **Senate Bill 266** would provide an income tax credit of up to \$1,000 for eligible expenditures incurred by family caregivers that are directly related to the care of an eligible family member.

cc : Secretary of Finance

Date: 1/27/2022 RWC
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