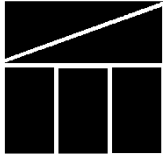


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



Virginia Department of Planning and Budget Economic Impact Analysis

23 VAC 10-330 – Bank Franchise Tax
Virginia Department of Taxation
Town Hall Action/Stage: 4624/7655
May 25, 2017

Summary of the Proposed Amendments to Regulation

The Department of Taxation (Tax) proposes to amend its bank franchise tax regulation to remove references to an obsolete tax form schedule and to conform language dealing with the calculation of gross capital and deductions to legislative changes that were passed in 1999, 2002 and 2004.

Result of Analysis

Benefits likely outweigh costs for all proposed changes.

Estimated Economic Impact

The sections of this regulation that this regulatory action changes (23 VAC 10-330-20 and 23 VAC 10-330-30) were promulgated in 1985 and have not been changed since. Tax now proposes to update this regulation to remove a reference to Schedule A of Form 64 (the Bank Franchise Tax Return) that is no longer used. Tax also proposes to make changes to these sections to conform them to legislative changes passed in 1999¹, 2002² and 2004³. Since all

¹ Chapter 84 of the 1999 Acts of the Assembly replaced a deduction for any reserve for loan losses with an addback to gross capital in the amount of one half of any reserve for loan losses net of applicable deferred tax.

² Chapter 667 of the 2002 Acts of the Assembly created a deduction equal to 90 percent of the value of “goodwill” created in connection with any acquisition or merger occurring on or after July 1, 2001 and specified that the value of “goodwill” must be determined using generally accepted accounting principles.

proposed changes to this regulation have already been in force as statutory law, no entity is likely to incur costs on account of this regulatory action. Interested parties who read this regulation will likely benefit from these changes as they remove and amend obsolete language that may cause confusion.

Businesses and Entities Affected

These proposed regulatory changes will affect all banks that pay the bank franchise tax. Tax reports that 123 banks in Virginia paid this tax in fiscal year 2016.

Localities Particularly Affected

No locality is likely to be particularly affected by these proposed regulatory changes.

Projected Impact on Employment

These proposed regulatory changes are unlikely to affect employment in the Commonwealth.

Effects on the Use and Value of Private Property

These proposed regulatory changes are unlikely to affect the use or value of private property in the Commonwealth.

Real Estate Development Costs

These proposed regulatory changes are unlikely to affect real estate development costs in the Commonwealth.

Small Businesses:

Definition

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

³ Chapter 3 of the 2004 Acts of the Assembly created a deduction for any portion of the amount added to federal taxable income pursuant to subdivision B(9) of §58.1-402 of the Code of Virginia by a corporation that is for interest expenses and costs paid to a bank for a loan or other obligation made by the bank to such corporation (so long as certain conditions are met).

Costs and Other Effects

No small businesses are likely to incur any additional costs on account of these proposed regulatory changes.

Alternative Method that Minimizes Adverse Impact

No small businesses are likely to incur any additional costs on account of these proposed regulatory changes.

Adverse Impacts:**Businesses:**

No businesses are likely to incur any additional costs on account of these proposed regulatory changes.

Localities:

Localities in the Commonwealth are unlikely to see any adverse impacts on account of these proposed regulatory changes.

Other Entities:

No other entities are likely to be adversely affected by these proposed changes.

Legal Mandates

General: The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

Adverse impacts: Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a

proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

amh