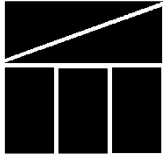


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes  Not Needed

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

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**23 VAC 10-110 – Individual Income Tax**  
**23 VAC 10-120 – Corporate Income Tax**  
**Department of Taxation**  
**Town Hall Action/Stage: 4868/8120**  
December 19, 2017

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### Summary of the Proposed Amendments to Regulation

As required by Chapter 762 of the 2017 Acts of the Assembly,<sup>1</sup> the Department of Taxation (Department) proposes to establish procedures regarding how an investment fund may apply for certification as a Virginia venture capital account.

### Result of Analysis

Benefits likely outweigh costs for all proposed changes.

### Estimated Economic Impact

In 2017, Chapter 762, which allows a subtraction from individual or corporate taxable income for qualifying investments in certified Virginia venture capital accounts, became law. Chapter 762 specifies that investment funds must meet certain criteria in order to qualify for certification as a Virginia venture capital account and further specifies that only investments made in Virginia venture capital accounts that were certified between January 1, 2018 and December 31, 2023 will qualify for the allowed taxable income subtraction.<sup>2</sup>

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<sup>1</sup> <http://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+CHAP0762>

<sup>2</sup> Individuals and corporate entities that make qualifying investments will be able to take advantage of the income subtractions allowed for as many years as they hold the qualifying investment so qualifying taxable income subtractions will likely continue past 2023.

The Department now proposes this regulatory action to implement the certification program for Virginia venture capital accounts. The proposed regulatory requirements are substantially identical to those in the authorizing legislation but for two areas. The Department added several definitions that will tend to clarify these requirements and, as the legislation was silent on the mechanics of certification, the Department added a requirement that “every investment fund desiring to be certified... must first register with the Department.”<sup>3</sup>

This proposed regulation, and its underlying statute, allow but do not require certification of certain investments. Because of this, no investment fund is likely to pursue certification unless they judge that the extra benefit that may accrue to their fund on account of the allowable subtraction those investments will generate will outweigh any costs that they may incur to become certified. Those costs would likely include time and other costs associated with the application process as well as time spent keeping required records.

### **Businesses and Entities Affected**

This regulatory action will affect all investment funds who apply for certification as a Virginia venture capital account, individuals and businesses who administer such accounts and individual and corporate taxpayers who invest in qualified accounts.

### **Localities Particularly Affected**

No locality will be particularly affected by this regulatory action.

### **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.

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<sup>3</sup> The Department will be using the same certification process that it currently uses for qualified equity tax credits.

**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.”

**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.