DEPARTMENT OF TAXATION
2025 Fiscal Impact Statement

1. **Patron** Ryan T. McDougle
2. **Bill Number** SB 951

House of Origin:
X **Introduced**
___ **Substitute**
___ **Engrossed**

Second House:
___ **In Committee**
___ **Substitute**
___ **Enrolled**

3. **Committee** Senate Finance and Appropriations
4. **Title** Income Tax: Certain Sunset Provisions

5. **Summary/Purpose:**

This bill would remove the sunset provision, which applies to the current standard deduction amounts of $8,500 for single individuals and $17,000 for married individuals filing jointly. As a result, the current higher standard deduction amounts would apply permanently and would not revert to $3,000 for single individuals and $6,000 for married individuals filing jointly after Taxable Year 2025.

This bill would also remove the sunset provision, which applies to the refundable Virginia Earned Income Tax Credit ("Virginia EITC"). Under current law, the refundable Virginia EITC, which is equal to 15 percent of the federal earned income tax credit ("EITC") amount claimed on the taxpayer's federal return, is set to expire after Taxable Year 2025.

This bill would remove the sunset provision which currently applies to Virginia's elective pass-through entity tax ("PTET"). As a result, the PTET would become permanent and not expire after Taxable Year 2025.

If enacted during the regular session of the 2025 General Assembly, this bill would become effective July 1, 2025.

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

7. **No Fiscal Impact:** (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

Because the extension of the sunset dates for the current standard deduction, the refundable EITC, and the PTET are assumed in the official General Fund revenue forecast, this bill would have no revenue impact.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Federal Standard Deduction

On December 22, 2017, the Tax Cuts and Jobs Act (Public Law 115-97) was signed into law. This federal tax reform legislation substantially changed the federal income taxation of individuals and businesses. These changes include substantially increasing the federal standard deduction and indexed the federal standard deduction for inflation. For Taxable Year 2024, the amount of the federal standard deduction, after indexing, is as follows:

- $29,200 for married taxpayers filing jointly;
- $21,900 for heads of household; and
- $14,600 for single taxpayers and married taxpayers filing separately.

Like most other individual provisions of the TCJA, the increase in the amount of the federal standard deduction is currently scheduled to sunset after December 31, 2025, and revert to the amounts in the law prior to passage of the Tax Cuts and Jobs Act. Additional federal legislation would be required to make such increase effective beyond Taxable Year 2025.

Virginia's Standard Deduction History

Under current law, taxpayers that do not itemize their deductions for federal purposes are permitted to claim a standard deduction on their Virginia income tax returns. Virginia's standard deduction amounts have changed over the years.

Prior to 1987, the Virginia standard deduction was not a flat amount. Instead, for Taxable Year 1986 for example, the Virginia standard deduction was 15 percent of federal adjusted gross income with a $1,300 minimum and a $2,000 maximum. In 1988, it increased to $2,700 for both single filers and married filers. From 1989 to 2004, the standard deduction for single filers remained at $3,000, while for married filers, it increased to $5,000 during this period. In the 2004 Special Session I the standard deduction was increased for married filers from $5,000 to $6,000 for taxable years beginning on or after January 1, 2005.

During the 2019 Session, the General Assembly enacted legislation that increased the amounts of Virginia's standard deduction from $3,000 to $4,500 for single filers and from

$6,000 to $9,000 for married filers for Taxable Year 2019 through Taxable Year 2025. The sixth enactment clause of the 2022 Appropriation Act increased the standard deduction from $4,500 to $8,000 for single filers and from $9,000 to $16,000 for married filers taxable years beginning on or after January 1, 2022 but before January 1, 2026.

Virginia's Current Standard Deduction

The twentieth enactment clause of the 2023 Special Session I Amendments to the 2023 Appropriation Act increased the standard deduction from $8,000 to $8,500 for single filers and from $16,000 to $17,000 for married filers for taxable years beginning on or after January 1, 2024, but before January 1, 2026.

Virginia's standard deduction history from Taxable Year 1987 to the present is shown below:

Year	**Virginia Standard Deduction for Single Taxpayers**	**Virginia Standard Deduction for Married Taxpayers Filing Jointly**
1987	$2,000	$2,000
1988	$2,700	$2,700
1989-2004	$3,000	$5,000
2005-2018	$3,000	$6,000
2019-2021	$4,500	$9,000
2022-2023	$8,000	$16,000
2024-2025	$8,500	$17,000
2026 and following	$3,000	$6,000

Federal Earned Income Tax Credit

The federal EITC is a refundable tax credit for eligible individuals who have earned income in a taxable year that is below certain threshold amounts. The amount of the federal EITC is based on the presence and number of qualifying children in the worker's family, as well as the amount of the worker's federal adjusted gross income ("AGI") and earned income. Taxpayers are required to provide a valid Social Security number for themselves and each dependent they are claiming in the calculation of the EITC.

For purposes of the federal EITC, earned income includes any wages, salaries, tips, and other employee compensation includible in an individual's gross income, plus the individual's net earnings from self-employment without regard to the federal deduction for self-employment taxes. To qualify for the federal EITC for Taxable Year 2024, an individual's AGI and earned income must be less than:

- $59,899 ($66,819 for married filing jointly) if they have three or more qualifying children;
- $55,768 ($62,688 for married filing jointly) if they have two qualifying children;

- $49,084 ($56,004 for married filing jointly) if they have one qualifying child; or
- $18,591 ($25,511 for married filing jointly) if they do not have a qualifying child.

The maximum federal EITC for Taxable Year 2024 is $7,830 for an individual with three or more qualifying children, $6,960 for an individual with two qualifying children, $4,213 for an individual with one qualifying child, and $632 for an individual with no qualifying children.

Virginia Low-Income Tax Credits

Virginia allows an individual to claim either:

- The Tax Credit for Low-Income Individuals or
- The Virginia EITC.

The Tax Credit for Low-Income Individuals is a nonrefundable individual income tax credit equal to $300 each for the individual, the individual's spouse, and any person claimed as a dependent on such individual's or married individual's income tax return for the taxable year.

The nonrefundable Virginia EITC is equal to 20 percent of the federal EITC. In 2022, Virginia introduced an option for filers to select a refundable EITC that is 15 percent of the federal EITC. This refundable Virginia EITC option is set to expire after Taxable Year 2025.

To the extent that a Virginia resident wishes to claim the Virginia EITC on a refundable basis, their credit is limited 15 percent of the federal EITC rather than 20 percent. Because Virginia residents claiming the credit on a refundable basis do not receive the full 20 percent, the Virginia EITC is sometimes referred to as "partially refundable."

Cap on the Deduction for State and Local Taxes Paid

The federal Tax Cuts and Jobs Act limited the itemized deduction for state and local taxes paid ("SALT") to $10,000 for taxable years beginning after December 31, 2017, and before January 1, 2026. Since then, several states, including Virginia have enacted laws to work around this limitation for owners of PTEs. These laws have become commonly known as "PTE SALT cap workarounds."

A PTE is generally not taxed on its income. Instead, the PTE's income is reported by its owners, which then pay federal and state income taxes on their share of such income. However, any state tax paid by individual owners would be subject to the new $10,000 itemized deduction limitation. Therefore, any individual owners would not be able to deduct their state tax in excess of $10,000. State PTE SALT workarounds generally:

- Allow a PTE to elect to pay state tax on its income; and
- Offer the individual owners of the PTE either a credit or a deduction, the effect of which is to exempt such owners from tax on the PTE's income.

For federal income tax purposes, transferring the state tax burden from the individual owner to the PTE can be beneficial because, unlike its individual owners, the PTE itself is not subject to the $10,000 limitation and is entitled to deduct an unlimited amount of state tax. Therefore, this tax planning technique allows the individual owners to avoid the $10,000 limitation on their federal returns.

Virginia's Pass-through Entity Tax

During the 2022 Session, the General Assembly enacted legislation to permit certain PTEs to make an annual election to pay an elective income tax at a rate of 5.75 percent at the entity level. The 2022 legislation also allowed a corresponding refundable income tax credit to certain PTE owners for income paid by a PTE if such PTE makes the election and pays the elective income tax imposed at the entity level. The effect of the PTET and corresponding refundable credit is to offer taxpayers a workaround to the $10,000 cap on the federal deduction for state and local taxes paid. During the 2023 Session, the General Assembly enacted legislation that expanded the number of PTEs that were eligible to make this election.

Proposal

This bill would remove the sunset provision, which applies to the current standard deduction amounts of $8,500 for single individuals and $17,000 for married individuals filing jointly. As a result, the current higher standard deduction amounts would apply permanently and would not revert to $3,000 for single individuals and $6,000 for married individuals filing jointly after Taxable Year 2025.

This bill would also remove the sunset provision, which applies to the refundable Virginia EITC. Under current law, the refundable Virginia EITC, which is equal to 15 percent of the federal EITC amount claimed on the taxpayer's federal return, is set to expire after Taxable Year 2025.

This bill would remove the sunset provision which currently applies to Virginia's elective PTET. As a result, the PTET would become permanent and not expire after Taxable Year 2025.

If enacted during the regular session of the 2025 General Assembly, this bill would become effective July 1, 2025.

Similar Bills

HB 1551 and **SB 845** would remove the sunset provision from the current standard deduction amounts.

HB 1754 would create a new 7 percent income tax bracket, increase the standard deduction to $12,000 for single individuals and $24,000 for married persons filing jointly with no sunset date, and index the standard deduction to inflation.

HB 1997 would remove the sunset provision from the PTET.

SB 782 would remove the sunset provisions from the current standard deduction amounts and the refundable EITC.

cc : Secretary of Finance

Date: 01/22/2025 JLOF
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