# DEPARTMENT OF TAXATION
# 2026 Fiscal Impact Statement

1. **Patron** Briana D. Sewell

2. **Bill Number** HB 1210
**House of Origin:**
__X__ **Introduced**
_____ **Substitute**
_____ **Engrossed**

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

3. **Committee** House Finance

4. **Title** Individual Income Tax; Long-Term Capital Gain Subtraction

5. **Summary/Purpose:**

This bill would provide an individual income tax subtraction for income that is (i) taxed as a long-term capital gain for federal income tax purposes, (ii) attributable to the sale of property that served as the taxpayer's principal residence, and (iii) in excess of $250,000 ($500,000 for joint filers), in gain from such a sale.

This bill would be effective for taxable years beginning on and after January 1, 2025, but before January 1, 2030.

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

7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

8. **Fiscal implications:**

<u>Administrative Costs</u>

The Department of Taxation (“the Department”) considers this bill as routine and does not require additional funding.

This legislation does not require significant changes to the Department’s systems and is not impacted by the first phase of the Integrated Revenue Management System (“IRMS”) replacement project. No resource constraints or implementation considerations are anticipated.

<u>Revenue Impact</u>

This bill would have an unknown negative General Fund revenue impact beginning in Fiscal Year 2026.

Due to data limitations on the number of principal residences sold in Virginia, the amounts of gains on these sales, and the marital status of those receiving such gains the Department was only able to come up with a speculative estimate for this bill. Based on

Virginia’s share of nationally available data, the Department estimates that this bill would result in a negative General Fund revenue impact of as much as $300 million per fiscal year. This number could vary greatly depending upon values in the housing market.

**9. Specific agency or political subdivisions affected:**

Department of Taxation

**10. Technical amendment necessary:** Yes.

Under federal law, there are other limitations on the exclusion in addition to its $250,000 cap ($500,000 for joint filers). These include ownership and use tests (2 of the last 5 years) and the once-every-2-years rule. Please see Line 11 for more information. If the intent of the Patron is to remove the $250,000 limitation ($500,000 for joint filers) for Virginia income tax purposes but ensure that the remaining limitations are still in force, then the Department suggests the following technical amendment:

Line 223: After “(iii)”
Strike: “exceeds”
Insert: “would otherwise qualify for exclusion, but for”

**11. Other comments:**

Virginia’s Individual Income Tax Modifications

*Federal Adjusted Gross Income*

Virginia’s Individual Income Tax substantially conforms to federal income tax law by using federal adjusted gross income (“FAGI”) as the starting point for computing Virginia income taxes. Virginia law then provides various modifications to FAGI that must be taken into account that figure in determining Virginia taxable income.

*Virginia Adjusted Gross Income*

When completing a Virginia individual income tax return, a taxpayer starts with the amount of FAGI reported on his federal return. A taxpayer then calculates Virginia adjusted gross income by making two types of adjustments: (1) “additions” which increase the amount of income taxable by Virginia and (2) “subtractions” which reduce such amount. These adjustments are made only to the extent that they have not already been included or excluded from FAGI.

*Virginia Taxable Income*

The taxpayer calculates his Virginia taxable income by making another type of modification referred to as “deductions,” which further reduce the amount of income taxable by Virginia. These modifications are made regardless of federal treatment unless specifically stated otherwise in the provision.

Please find below an illustration of how taxable income is computed for federal and Virginia income tax purposes and how they interrelate:

| Federal Income Tax | Virginia Income Tax |
|---|---|
| +Wages and Other Income | *=Federal Adjusted Gross Income ("FAGI")* |
| +Federal Adjustments | +Virginia Additions (only if not included in FAGI) |
| -Federal Adjustments | -Virginia Subtractions (only if not excluded from FAGI) |
| *=Federal Adjusted Gross Income ("FAGI")* | *=Virginia Adjusted Gross Income ("VAGI")* |
| -Federal Standard Deduction or Itemized Deductions | -Virginia Standard Deduction or Federal Itemized Deductions (depends on federal election) |
| -QBI Deduction | -Deduction for Virginia Exemptions |
| | -Virginia Deductions (regardless of federal treatment) |
| *=Federal Taxable Income* | *=Virginia Taxable Income* |

Because this bill would establish a new Virginia individual income tax subtraction, the amount allowed under this bill could be taken whether the taxpayer chooses to take the Virginia standard deduction or itemize their deductions.

<u>Capital Gains</u>

Almost everything owned and used for personal or investment purposes is a capital asset. Examples include homes, household furnishings, stocks, bonds or other forms of investment. When a capital asset is sold, the difference between what the taxpayer paid for the asset (the "basis") and the amount for which it is sold is a capital gain or a capital loss. A capital gain is realized if the sale price of the asset exceeds its basis, while a capital loss is realized if the sale price of the asset is less than its basis.

Capital gains and losses are classified as either long-term or short-term. If an asset is held for more than one year before it is sold, the capital gain or loss is long-term. A short-term capital gain is when the asset is held for one year or less.

If a net capital gain is realized, for federal income tax purposes, that gain may be taxed at a lower tax rate than the ordinary income tax rates. The "net capital gain" is the amount by which a net long-term capital gain for the year is more than the sum of the net short-term capital loss and any long-term capital loss carried over from the previous year. Currently, net capital gain is generally taxed at rates no higher than 20%, although some or all net capital gain may be taxed at 0%, if it would otherwise be taxed at lower rates. Virginia does not currently have any preferential tax treatment for capital gains.

*Federal Exclusion of Gain from the Sale of Principal Residence*

Taxpayers that have a capital gain from the sale of their qualified principal residence may qualify to exclude up to $250,000 ($500,000 for joint filers) of that gain from their income. Under federal tax law a taxpayer's principal residence is the taxpayer's main home for any given year which is established by a facts and circumstances test. To qualify for the federal exclusion the sale of the taxpayer's principal residence must meet both the ownership test and the use test. Taxpayers are eligible for the exclusion if they have owned and used their home as their main home for a period aggregating at least two years out of the five years prior to its date of sale. Taxpayers may meet the ownership and use tests during different 2-year periods. However, they must meet both tests during the 5-year period ending on the date of the sale. Generally, taxpayers are not eligible for the exclusion if they have excluded the gain from the sale of another home during the two-year period prior to the sale of their home.

*Virginia's Subtraction for Certain Long-Term Capital Gains*

Virginia allowed an individual and corporate income tax subtraction for any income attributable to an investment made between April 1, 2010, and June 30, 2020, in certain high technology businesses that is taxed as long-term capital gain or investment services partnership interest income for federal income tax purposes. The sale of a principal residence would not qualify for this subtraction.

Proposed Legislation

This bill would provide an individual income tax subtraction for income that is (i) taxed as a long-term capital gain for federal income tax purposes, (ii) attributable to the sale of property that served as the taxpayer's principal residence, and (iii) in excess of the federal limitation on the gain from such a sale (which is currently $250,000 for single filers and $500,000 for joint filers).

This bill would be effective for taxable years beginning on and after January 1, 2025, but before January 1, 2030.

Similar Bills:

**SB 139** is identical to this bill.

cc : Secretary of Finance

Date: 01/22/2026 JLOF
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