



# HB 614/SB 545

## KEEP IRC SECTION 199

# DOMESTIC PRODUCTION DEDUCTION (DPD)

*Disallowing Section 199 IRC Domestic Production Deduction  
is a \$60 million Tax Increase*

### WHY IS THERE A SECTION 199 DEDUCTION?

1. In 2004, the World Trade Organization ruled that the “extraterritorial income exclusion” for US exporters violated international trade laws. The Section 199 deduction was a direct response to this ruling.
2. Lower the effective tax rate on U.S. Global companies—2nd highest among OECD countries.



### WHO QUALIFIES?

- All taxpayers (individuals, partners and owners of S corporations, C corporations, farming cooperatives, estates, trusts, and their beneficiaries).

### ARE THERE LIMITS?

- Deduction cannot exceed a taxpayer’s taxable income in any given year.
- Deduction cannot exceed 50% of the “W-2 Wages” paid to employees for the year.

### WHAT DOMESTIC PRODUCTION ACTIVITIES QUALIFY?

- Construction, engineering or architectural services connected with real property construction in the U.S.
- Manufacturing and mining production or growth of tangible personal property in the U.S.
- Information Technology/Software
- Film production

### What is the Net Cost and Benefit to Virginia? VA TAX vs. Milken Institute...

Section 199 deduction equals a percentage of net income from qualified domestic production activities: 3% in 2005-2006; 6% in 2007-2009; and 9% after 2009. VA TAX estimates the cost to be \$30 million per year or \$60 million for the biennium. Virginia has allowed the IRC Section 199 deduction since 2005.

VA TAX employs a static model of revenue forecasting based upon proposed tax changes. A dynamic forecasting method would attempt to predict behavior, thus, revenue from activity affected by tax policy changes. It has been reported that 10-25 states now use the Regional Economic Models, Inc. (REMI) models or methods for dynamic revenue forecasting in relation to tax policies. **VA TAX DOES NOT USE DYNAMIC FORECASTING.**

The U.S. statutory corporate income tax has remained at roughly 40 percent (the federal rate of 35 percent plus the average state rate of 4.7 percent) for the past 20 years. That tax rate is second-highest among OECD countries today, trailing only Japan. Meantime, the OECD average has fallen from 47 percent in 1981 to 26.3 percent in 2009 (Source: Milken Institute, <http://www.milkeninstitute.org/pdf/JFAMilkenInstitute.pdf>, January 2010).

**Virginia industrial businesses have an effective corporate tax rate of 41% (35% Federal and 6% state) - far behind the OECD average of 26.3%.** Global businesses make business decisions differently than others, and, all other variables being equal, will choose a lower tax state or nation to consolidate production activities.



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### SUPPORT FINANCE COMMITTEE SUBSTITUTE

### *KEEP GLOBAL JOBS IN VIRGINIA*



**NO \$60 MILLION  
TAX INCREASE**

**SAVE 6,400 JOBS  
(EST.)**

#### VOTES

##### HB 614

[02/10/10 House: Reported from Finance with substitute \(19-Y 1-N\)](#)

[02/10/10 House: Referred to Committee on Appropriations](#)

##### SB 545

[02/16/10 Senate: Passed Senate \(40-Y 0-N\)](#)

02/17/10 House: Placed on Calendar

02/17/10 House: Read first time

[02/17/10 House: Referred to Committee on Appropriations](#)

IRS SOURCES: [HTTP://WWW.IRS.GOV/FORMSPUBS/ARTICLE/0,,ID=177957,00.HTML](http://www.irs.gov/formspubs/article/0,,id=177957,00.html), [HTTP://WWW.IRS.GOV/PUB/IRS-REGS/TD9293.PDF](http://www.irs.gov/pub/irs-regis/td9293.pdf)