Support the Virginia Filing Election Flexibility Act
HB1405 (McNamara) / SB796 (Surovell)

Summary

HB1405 /SB796 would give Virginia corporate taxpayers additional flexibility to select how they file their corporate income tax returns.

Background

Corporations that pay corporate income taxes in Virginia have the option to file using the **separate** or **consolidated method**.

This initial decision is typically made early in the company's life cycle. Once made, a company is locked into it for at least for 12 years, but likely much longer given existing requirements.

Specifically, companies can only change filing methods if:

1. They have waited at least 12 years;
2. They agree to calculate under both methods (separate and consolidated) for the first two years and pay the higher tax of the two; and
3. For the preceding tax year, they would have paid ***higher*** taxes under the filing method they would like to adopt.

Provision #3 above makes the election inaccessible to the vast majority of Virginia taxpayers.

This law penalizes companies that have grown and developed and would like to select a new filing method.

In 2022, Virginia shortened the election period from 20 years to 12 years (HB 348 - Watts). This legislation demonstrated support for a policy of increased flexibility.

HB1405 /SB796 would give additional needed flexibility to companies to choose the method of filing after waiting 12 years and agreeing to pay the higher tax amount for the first two years under the new election.

This would give Virginia corporations greater filing flexibility while preserving the protections on near-term impact to state corporate income tax collections.

The legislation has an indeterminate fiscal impact, but will make Virginia more competitive and encourage companies to grow and flourish. Any potential impact would be spread over a minimum of the next 12 years.