Include GILTI Deduction and phased Net Interest Expense deductions in House & Senate conformity/policy bills

Coalition Members:
Anheuser-Busch, Anthem, Bank of America, Capital One, Hospital Corporation of America (HCA), Verizon, WalMart, Virginia Association of Health Plans, Virginia Chamber of Commerce, Virginia Bankers Association, WestRock, Smithfield Foods, Raytheon, International Paper, Wells Fargo, MillerCoors, Virginia Manufacturers Association, Maersk, Universal Corporation, Virginia Poultry Federation, PRA Group, Inc., National Foreign Trade Council, Council on State Taxation (COST), Computing Technology Industry Association (CompTIA), Organization for International Investment, NOVA Chamber of Commerce, Virginia Petroleum Council, Security Industry Association, CTIA, Ferguson Enterprises, Northern Virginia Technology Council, Air Liquide USA, Hilton Worldwide, Norfolk Southern, ABB Corp, Nestle, Arlington Chamber of Commerce, Washington Natural Gas.

- The above coalition of businesses and trade associations recommends preserving the tax deductibility, at the state level, of two items: Global Intangible Low Taxed Income (GILTI) and the Net Interest Deduction. Not doing so will make Virginia less competitive in attracting and retaining businesses. We are recommending a phased net interest deduction and full GILTI deduction.

- Adding these deductions will *maintain consistency in Virginia's policy* regarding overseas income and the Net Interest Deduction. *Conformity without these items* is an unfavorable policy and results in a tax increase. Adding the deductions continues existing policy and avoids a tax increase.

- GILTI is a newly defined form of overseas income, subject to Federal Tax after the application of foreign tax credits. Virginia, like 30 other states, allows companies to DEDUCT overseas income from State Income Tax; this overseas income is not created in or derived from Virginia operations. Since GILTI is a new term, it does not appear in the Virginia Code, and the Virginia Department of Taxation opined it does not meet the current definition of overseas income. If Virginia does not add a GILTI deduction, it is a change to existing policy. The State will now tax this one form of overseas income but not the others. Adding GILTI to the definition of overseas income maintains consistency in Virginia policy. Importantly, 800 global employers have operations in Virginia and could be negatively affected by this change.

- Net Interest Deduction: Companies borrow money to finance their operations, including business expansions, construction, equipment purchases, etc. Companies also generate income from interest and pay out interest. They can currently deduct the net interest expense from their taxes. The Federal bill puts a limit on the deduction (which hasn't been defined yet). If Virginia conforms without adding an interest deduction, it will change existing policy, i.e., the state will now tax some interest expense. Preserving even a partial deduction in the Virginia code keeps existing policy in place. This will have a major impact on where companies choose to invest in infrastructure, buildings, and equipment. The Net Interest Deduction limitation calculation is extremely complex with more than 400 pages of proposed IRS regulations that haven't been adopted yet, and numerous unanswered questions on how states would apply it. This is another reason why the Commonwealth should add language to define and maintain a partial Net Interest Deduction. Doing so avoids uncertainty and complexity.

- **CT, NC, SC, GA, KY, IN, IL, MI, MA, TN, and WI** have already added deductions for one or both provisions; other states are taking it up.

- A corporate income tax rate decrease does not solve these problems because these revenue streams are currently not taxed. Lowering the tax from 6 to 5 percent is still an increase from the current rate of 0 for overseas income and interest expense. Adding the deductions is the best option to maintain existing policy.

- The Fiscal Impact Statements are based off unrealized revenue. They are drawn off the Governor's introduced budget and not the current code and assume conformity, which has not happened yet.