

2007 LEGISLATIVE SUMMARY



Virginia
Department of Taxation

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Tax Commissioner

INTRODUCTION

The **Legislative Summary** is published by the Department of Taxation (TAX) as a convenient reference guide to state and local tax legislation enacted by the 2007 Session of the General Assembly. The **Summary** includes a general description of enacted legislation affecting:

- ◆ State taxes administered by TAX, and
- ◆ Local taxes for which TAX assists with administration or on which TAX renders advisory assistance.

References to chapter numbers are to the corresponding chapters in the Acts of Assembly, which may be viewed at <http://leg1.state.va.us/lis.htm>. Effective dates of the legislation vary and are set out in each description.

The **Summary** also includes legislative studies in which TAX will be directly involved or acting in a technical support role. In general, however, legislation granting property tax exemptions, creating special taxing jurisdictions or affecting taxes administered by other state agencies is not included in the **Summary**.

The **Summary** is intended to provide a synopsis of enacted legislation and is for information purposes only. The **Summary** is not a substitute for the actual state law, local ordinances, and TAX regulations. Additional information on new legislation affecting state taxes may be obtained from TAX at the following telephone numbers:

Individual Income Tax	(804) 367-8031
Corporation Income Tax	(804) 367-8037
Sales and Use Tax	(804) 367-8037
Employer Withholding Tax	(804) 367-8037
Voice/TDD	(804) 367-8329

E-Mail: Information may also be obtained by electronic mail as follows:

TaxIndReturns@tax.virginia.gov **(Personal tax inquiries)**

TaxBusQuestions@tax.virginia.gov **(Business tax inquiries)**

E-mails sent to these addresses are not encrypted and therefore are not secure.

TAX strongly recommends that you avoid including confidential or personal information.

Additional information on new local tax legislation should be obtained from your local Commissioner of the Revenue, Treasurer or Director of Finance.

Virginia Department of Taxation
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STATE TAX

LEGISLATION

GENERAL PROVISIONS

Transportation Funding

House Bill 3202 (Chapter 896) provides additional funding for transportation projects through the imposition of taxes, fees and other revenue sources. This bill authorizes any locality to impose additional impact fees if it has established an urban transportation service district and adopted an impact fee ordinance pursuant to this bill by December 31, 2008. The revenues generated by this bill would not be used to reduce the share of local, federal, or state revenues otherwise available to the localities.

This bill also (i) increases fees for motor vehicle registration, (ii) increases fees for violations of vehicle weight limits, and (iii) imposes civil remedial fees on drivers convicted of certain driving and vehicle related infractions and on drivers with eight or more driver demerit points. This bill also raises the motor fuels tax rate on diesel fuel from 16 to 17.5 cents per gallon, and increases the road tax on motor carriers from 19.5 to 21 cents per gallon. The revenues collected from these increases will be dedicated to the Highway Maintenance and Operation Fund. This bill also dedicates one-third of all revenues collected from the license tax on insurance companies to the Priority Transportation Fund.

The bill authorizes the Northern Virginia Transportation Authority to impose additional local fees and taxes to be used for transportation purposes. The additional local fees and taxes that the Northern Virginia Transportation Authority may impose include: i) an additional fee of \$100 in Northern Virginia on initial issuances of driver's licenses; ii) an additional annual vehicle license fee of \$10; iii) an additional initial vehicle registration fee of 1% of the value of the vehicle; iv) an additional vehicle inspection fee of \$10; v) an additional local grantor's tax at the rate of \$0.40 per \$100; vi) a rental car tax at the rate of 2%; and vii) a transient occupancy tax at the rate of 2%. In addition, the locality may impose a commercial real property tax at a rate not to exceed \$0.25 per \$100. This bill also authorizes the authority to impose a 5% sales and use tax on motor vehicle repair services provided within the authority. The motor vehicle repair taxes and use tax would be administered by TAX. This bill also repeals the authority in localities imposing the additional fees to impose a local income tax.

This bill also creates the Hampton Roads Transportation Authority consisting initially of the counties of Isle of Wright, James City, and York, and the cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg. Subject to approval of seven of the twelve localities embraced by the authority that include 51% of the population of the localities embraced by the authority, the Hampton Roads Transportation Authority is authorized to impose additional local fees and taxes to be used for transportation purposes if it imposes all of the fees authorized by this bill. The additional local fees and taxes that the localities may impose include: i) an additional fee of \$100 on initial issuances of driver's licenses; ii) an additional annual vehicle license fee of \$10; iii) an additional

initial vehicle registration fee of 1% of the value of the vehicle; iv) an additional vehicle inspection fee of \$10; v) an additional local grantor's tax at the rate of \$0.40 per \$100; vi) a rental car tax at the rate of 2%; v) an additional local grantor's tax at the rate of \$0.40 per \$100; vi) a rental car tax at the rate of 2%; and vii) a motor fuel sales tax at the rate of 2%. In addition, the locality may impose a commercial real property tax at a rate not to exceed \$0.10 per \$100. This bill also authorizes the authority to impose a 5% sales and use tax on motor vehicle repair services provided within the authority. The motor vehicle repair taxes and use tax would be administered by TAX. This bill also repeals the authority in localities imposing the additional fees to impose a local income tax.

Effective Date: July 1, 2007

Code Sections Amended: §§ 2.2-1514, 10.1-1188, 15.2-2317-15.2-2327, 15.2-2403, 15.2-4839, 15.2-4840, 33.1-3, 33.1-19.1, 33.1-23.03, 33.1-23.03:8, 33.1-223.2:12, 33.1-268, 33.1-269, 33.1-277, 46.2-694, 46.2-694.1, 46.2-697, 46.2-1135, 58.1-605, 58.1-606, 58.1-811, 58.1-2217, 58.1-2249, 58.1-2289, 58.1-2403, 58.1-2425, 58.1-2701 and 58.1-2706

Code Section Added: §§ 15.2-2223.1, 15.2-2329, 15.2-2329, 15.2-2403.1, 15.2-4838.1, 30-278, 30-282, 33.1-23.4:01, 33.1-391.6, 33.1-391.15, 46.2-206.1, 46.2-702.1, 46.2-755.1, 46.2-755.2, 46.2-1167.1, 58.1-625.1, 58.1-802.1, 58.1-815.4, 58.1-1724.2, 58.1-1724.7, 58.1-2402.1, 58.1-2531, 58.1-3221.2 and 58.1-3825.1

INCOME TAX

Advancement of Virginia's Fixed Date Conformity with the Internal Revenue Code

House Bill 1696 (Chapter 59) and Senate Bill 1105 (Chapter 782) advance Virginia's date of conformity to the IRC from December 31, 2005 to December 31, 2006. This will avoid the necessity of requiring taxpayers to make adjustments for any federal tax changes enacted in 2006. Virginia will continue to disallow any bonus depreciation allowed for certain assets under federal income taxation and any five-year carry-back of NOLs allowed for NOLs generated in either taxable year 2001 or 2002.

The advancement allows the benefits of the following acts of Congress to flow through to Virginia taxpayers:

- The Tax Increase Prevention and Reconciliation Act of 2005, which altered various corporate and individual income tax provisions and extended sunset dates on various tax breaks.
- The Pension Protection Act of 2006 that changed the tax treatment of certain retirement funds at the corporate and individual levels.
- The Tax Relief and Health Care Act of 2006, which expanded many deductions related to energy and health savings accounts as well as other provisions relating to both individuals and corporations.

This bill contains an emergency clause which states that it is in force from the date of its passage.

Effective Date: February 19, 2007

Code Section Amended: § 58.1-301

Filing Threshold and Personal Exemption Amounts for Individual Income Tax

House Bill 3022 (Chapter 527) and Senate Bill 778 (Chapter 543) increase the individual income tax filing thresholds for single individuals from \$7,000 to \$11,250 for 2008 and 2009, \$11,650 for 2010 and 2011 and \$11,950 for 2012 and beyond. The bills increase the filing threshold for married couples from \$14,000 to \$22,500 for 2008 and 2009, 23,300 for 2010 and 2011, and 23,900 for 2012 and beyond.

The bills also increase the personal exemption amount from \$900 to \$930 effective for taxable year 2008.

Effective Date: Taxable years beginning on or after January 1, 2008

Code Sections Amended: §§ 58.1-321 and 58.1-322

Nonprofit Hospitals Must Provide Returns and Information to the Department of Taxation

House Bill 2022 (Chapter 746) requires nonprofit hospitals to provide TAX a copy of any federal Form 990 or Form 990-EZ tax form filed with the Internal Revenue Service (IRS). The bill also requires such hospitals to provide TAX with a copy of any interim tax forms, reports, or returns filed with or provided to the IRS. The bill requires that all returns and information reports are to be provided to TAX within 30 days of their filing with the IRS.

Effective Date: July 1, 2007

Code Section Added: § 58.1-113

Deduction for Unreimbursed Organ Donation Expenses

House Bill 2220 (Chapter 636) provides an individual income tax deduction for the amount of unreimbursed out-of-pocket expenses paid by a living donor of an organ or other living tissue. The deduction is limited to the lesser of the amount of the expenses or \$5,000. The taxpayer cannot claim this deduction if he has already taken a federal medical deduction for these expenses.

Effective Date: Taxable years beginning on or after January 1, 2007

Code Section Amended: § 58.1-322

Deduction for Contributions to Virginia College Savings Plan

Senate Bill 785 (Chapter 942) increases from \$2,000 to \$4,000 the annual individual income tax deduction allowed for purchases and contributions for prepaid tuition contracts or savings trust accounts entered into with the Virginia College Savings Plan.

Effective Date: Taxable years beginning on and after January 1, 2009
Code Section Amended: § 58.1-322

Change in Date by Which Employers' Withholding Returns Must be Filed

House Bill 2284 (Chapter 753) requires those employers who must file withholding tax returns on a monthly basis to file those returns on the 25th of the following month. Under prior law, monthly filers were required to file the return on the last day of the following month for months that close a calendar quarter. For months that did not close a calendar quarter, the return was due on the 20th day of the following month.

Effective Date: January 1, 2008
Code Section Amended: § 58.1-472

Residential Tax Credit for Increased Accessibility and Visitability

House Bill 2498 (Chapter 68) and Senate Bill 791 (Chapter 765) expand the individual income tax credit for retrofitting residences with accessibility features. The bill also renamed the credit the "Livable Home Tax Credit." The expanded credit is applicable to those purchases that are designed to improve accessibility or visitability and meet eligibility guidelines established by the Department of Housing and Community Development. The credit may be for newly constructed residences in addition to retrofitting existing residences. The amount of credits granted for any taxable year may not exceed \$1 million with each taxpayer limited to a \$500 credit for a taxable year. The Disabled Accessibility Features Tax Credit was previously offered to Virginians who retrofit an existing resident with certain accessibility features but was not available to Virginians who purchased a new residence with such features.

Effective Date: Taxable years beginning on or after January 1, 2008
Code Section Amended: § 58.1-399.7

Voluntary Contribution to the Spay and Neuter Fund

House Bill 2525 (Chapter 69) changes the Spay and Neuter Fund voluntary contribution by distributing the money in the Fund to the localities of the Commonwealth instead of the Virginia Federation of Humane Societies. The Tax Commissioner is required to annually determine the total amounts designated to the Fund from each locality based on the locality of the filer who made the contribution to the Fund. The State Treasurer will then pay the appropriate amount to each respective locality.

Effective Date: July 1, 2007

Code Section Amended: § 58.1-344.3

Voluntary Contribution to Public Libraries and Celebrating Special Children, Inc.

House Bill 2602 (Chapter 70) adds public library foundations and Celebrating Special Children, Inc. to the list of voluntary contributions that may be added to the individual income tax return. Under current law, no more than 25 voluntary contributions may be listed on the individual income tax returns. Following the statutory process enacted in 2005, TAX intends to add the voluntary contribution for the Martin Luther King, Jr. Living History and Public Policy Center Fund to the 2007 individual income tax return. The order in which voluntary contributions would be added to the return in the future as space becomes available is: (1) the Virginia Caregivers Fund, (2) the Virginia Military Family Relief Fund, (3) Celebrating Special Children, Inc., and (4) the VDA Medicare Part D Counseling Fund.

Effective Date: July 1, 2007

Code Section Amended: § 58.1-344.3

Voluntary Contribution to the Department of Aging

Senate Bill 954 (Chapter 601) adds a voluntary contribution for the Department for the Aging (“VDA”) to the individual income tax return. Funds received from this voluntary contribution would be used to provide Medicare Part D counseling to the elderly and disabled.

Under current law, no more than 25 voluntary contributions may be listed on the individual income tax returns. Following the statutory process enacted in 2005, TAX intends to add the voluntary contribution for the Martin Luther King, Jr. Living History and Public Policy Center Fund to the 2007 individual income tax return. The order in which voluntary contributions would be added to the return in the future as space becomes available is: (1) the Virginia Caregivers Fund, (2) the Virginia Military Family Relief Fund, (3) Celebrating Special Children, Inc., and (4) the VDA Medicare Part D Counseling Fund

Effective Date: July 1, 2007

Code Section Amended: § 58.1-344.3

Abusive Tax Avoidance Transactions

House Bill 2920 (Chapter 524) allows TAX to assess income taxes within six years after a return was filed, whether such return was filed on or after the date prescribed, if the taxpayer knowingly failed to disclose on his state income tax return a transaction identified by the Tax Commissioner as an abusive tax avoidance transaction. The Tax Commissioner is required to publish a list of such transactions.

If a return is false or fraudulent, an assessment may be made at any time whether or not the falsity or fraud is related to the abusive tax avoidance transaction.

Effective Date: July 1, 2007

Code Section Amended: § 58.1-312

Withholding Tax for Pass-Through Entities

Senate Bill 1238 (Chapter 796) requires pass-through entities doing business in the Commonwealth and having taxable income derived from Virginia sources to pay a withholding tax equal to five percent of the nonresident owner’s share of income from Virginia sources. Each nonresident owner is allowed a credit for that owner’s share of the tax withheld by the pass-through entity. TAX will issue guidelines for the withholding by September 1, 2007.

Effective Date: Taxable years beginning on or after January 1, 2008

Code Sections Added: §§ 58.1-486.1 58.1-486.2

Income Tax Credit for the Purchase of Machinery and Equipment for Processing Recyclable Materials

House Bill 3044 (Chapter 529) and Senate Bill 870 (Chapter 593) extend the sunset date from January 1, 2007 to January 1, 2015 for the corporate income tax credit for the purchase of machinery and equipment used to produce personal property from recyclable materials. In addition, these bills make this credit available for use against the individual income tax as well as the corporate income tax.

These bills also specify that, in the event that a corporation converts to a partnership, limited liability company, or electing small business corporation (S corporation), the new business entity is entitled to any unused credits that were earned by the corporation. In addition, these bills require that credits earned by a partnership, limited liability company, or electing small business corporation (S corporation) be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in the business entity.

Effective Date: The provision of this bill advancing the sunset date of this credit is effective for taxable years beginning on or after January 1, 2007. The remaining provisions of this bill are effective for taxable years beginning on or after January 1, 2008.

Code Section Amended: § 58.1-439.7

Shareholders of S Corporations Subject to the Bank Franchise Tax

Senate Bill 1283 (Chapter 359) allows a shareholder of an electing small business corporation (S corporation) that was subject to the bank franchise tax for the calendar year in which the taxable year began to subtract the shareholder's allocable share of the income or gain of the S corporation, to the extent that it was included in his federal adjusted gross income. In addition, such a taxpayer is required to add back his allocable share of the losses or deductions of the S corporation, to the extent that it was included in his federal adjusted gross income. These taxpayers are also required to add back any distribution paid or distributed to the shareholders by the S corporation to the extent that such distributions were excluded from federal adjusted gross income.

Effective Date: Taxable years beginning on or after January 1, 2007

Code Section Amended: § 58.1-322

RETAIL SALES AND USE TAX

Sales Tax Exemption for Alternative Fuel Burning Stoves

House Bill 1640 (Chapter 84) provides an exemption from the Retail Sales and Use Tax for multifuel heating stoves purchased for use in heating an individual purchaser's residence. "Multi-fuel heating stoves" are defined as stoves that are capable of burning a wide variety of alternative fuels, including, but not limited to, shelled corn, wood pellets, cherry pits, and olive pits. The provisions of this bill expire July 1, 2012.

Effective Date: July 1, 2007

Code Section Amended: § 58.1-609.10

Extend the Sunset Date for Textbooks and Educational Materials Distributed to Educators Free of Charge

House Bill 1674 (Chapter 58) and Senate Bill 999 (Chapter 604) extend the sunset date from July 1, 2008 to July 1, 2012, for the Retail Sales and Use Tax exemption for textbooks and other educational materials withdrawn from inventory at book-publishing distribution facilities for free distribution to professors and other individuals who have an educational focus. The exemption authorized by this bill is an exception to the general requirement that a business pay use tax on inventory withdrawn and donated free-of-charge. This exemption was first enacted in 1998 and the sunset date was previously extended in 2002 and 2004.

Effective Date: July 1, 2007

Code Section Amended: § 58.1-609.6

Exemption for Railroad Rolling Stock

House Bill 2148 (Chapter 751) provides an exemption from the Retail Sales and Use Tax for railroad rolling stock when sold or leased by the manufacturer regardless of whether the purchaser is a public service corporation engaged in business as a common carrier of property or passengers by railway, for use or consumption by such common carrier directly in the rendition of its public service. Railroad rolling stock would be defined as "locomotives, autocars, railroad cars of every kind and description, and all other equipment determined by the Tax Commissioner to constitute railroad rolling stock."

Effective Date: July 1, 2007

Code Sections Amended: §§ 58.1-602 and 58.1-609.3

Modified Audit Requirements for Nonprofits

House Bill 2545 (Chapter 698), House Bill 3062 (Chapter 704) and Senate Bill 743 (Chapter 709) modify the criteria for nonprofit organizations to receive an exemption from the Retail Sales and Use Tax by permitting nonprofit organizations that have gross annual revenues between \$750,000 to \$1,000,000, the choice of providing a full “financial audit” or a “financial review” in lieu of a full financial audit, both of which must be performed by an independent certified public accountant. Nonprofit organizations with gross annual revenues of \$1 million or greater would be required to provide a full financial audit performed by an independent certified public accountant.

Under prior law nonprofit organizations with gross annual revenues ranging from \$250,000 to \$499,999 were permitted to submit a financial review in lieu of a full financial audit in order to qualify for exemption. Nonprofit organizations with gross annual revenues of \$500,000 or greater were required to submit a full financial audit.

Effective Date: July 1, 2007

Code Section Amended: § 58.1-609.11

Sales Tax Holiday for Energy Star Qualified Products

House Bill 1678 (Chapter 176) and Senate Bill 867 (Chapter 817) provide an annual four-day sales tax “holiday” during which Energy Star qualified products purchased for noncommercial home or personal use with a sales price of \$2,500 or less per item could be purchased exempt of the Retail Sales and Use Tax. The sales tax holiday will begin each year on the Friday before the second Monday in October and end on the second Monday in October. For purposes of this exemption, an Energy Star qualified product is any dishwasher, clothes washer, air conditioner, ceiling fan, compact fluorescent light bulb, dehumidifier, programmable thermostat, or refrigerator, the energy efficiency of which has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each such agency’s requirements under the Energy Star Program.

This bill authorizes dealers to absorb the sales and use tax on all other items sold during the same time period, thereby relieving the purchasers of the obligation to pay such tax. Any dealer who absorbs the tax on non-qualifying items is required to remit such tax to the Tax Commissioner.

Effective Date: July 1, 2007

Code Sections Amended: §§ 58.1-609.1, 58.1-625 and 58.1-626

Sales Tax Holiday for Hurricane Preparedness Equipment

Senate Bill 1167 (Chapter 608) provides an exemption from the Retail Sales and Use Tax, beginning in 2008, on certain hurricane preparedness equipment purchased during a seven-day period. The exemption is available, each year, beginning on May 25 and ending at 11:59 p.m. on May 31. Items available for exemption during the seven-day period include portable generators used to provide light or communications or preserve food in the event of a power outage and certain other hurricane preparedness equipment. The exemption applies to each portable generator with a selling price of \$1,000 or less per item, and each other article of hurricane preparedness equipment, as defined by TAX, with a selling price of \$60 or less.

Additionally, this bill authorizes dealers to absorb the sales and use tax on all other items sold during the same time period, thereby relieving the purchasers of the obligation to pay such tax. Any dealer who absorbs the tax on non-qualifying items is required to remit such tax to the Tax Commissioner.

This bill requires that TAX develop guidelines that describe the items of merchandise that qualify for the exemption and make such guidelines available, both electronically and in hard copy, no later than May 15 of each year.

The provisions of this bill expire on July 1, 2012.

Effective Date: July 1, 2007

Code Sections Amended: §§ 58.1-625 and 58.1-626

Code Section Added: § 58.1-611.3

Exemption for Property Used in the Care and Maintenance of a Nonprofit Church

House Bill 2724 (Chapter 758) expands the Retail Sales and Use Tax exemption applicable to nonprofit churches that are exempt from taxation under § 501(c)(3) of the Internal Revenue Code to include tangible personal property used in the care or maintenance of any property owned by these churches. The exemption would include, but not be limited to, such items as mowing equipment and building materials that are installed by the church rather than through a contract.

Effective Date: July 1, 2007

Code Section Amended: § 58.1-609.10

MISCELLANEOUS TAXES

Communications Tax

Exemption for Military Base Customers

House Bill 2723 (Chapter 811) provides a Communications Sales and Use Tax exemption to customers on federal military bases or installations where a franchise fee is payable to the federal government with respect to the communications services. The exemption relieves affected consumers from paying both the communications sales and use tax and a cable franchise fee on the same services.

Effective Date: January 1, 2007

Code Section Amended: § 58.1-648

Aircraft Sales Tax

Exemption for Certain Aircraft

Senate Bill 1172 (Chapter 610) provides an Aircraft Sales and Use Tax exemption for aircraft that are (i) considered Warbirds, manufactured and intended for military use, excluding those manufactured after 1954, and (ii) used only for (a) exhibit or display to the general public (including such flights as are necessary for testing, maintaining, or preparing such aircraft for safe operation), or (b) air show and flight demonstrations (including such flights as are necessary for testing, maintaining, or preparing such aircraft for safe operation). Aircraft used for commercial purposes, including transportation or other purposes for a fee, do not qualify for this exemption.

Effective Date: July 1, 2007

Code Section Amended: § 58.1-1505

Recordation Tax

Clarification of Rate Applied

House Bill 2059 (Chapter 748) and Senate Bill 822 (Chapter 768) provide that the grantor's recordation tax is applied to the greater of the consideration paid for an interest in real property or the value of the interest. Previously the tax was applied to the consideration paid for the interest; the actual value was used only if the consideration could not be ascertained.

Effective Date: July 1, 2007

Code Section Amended: § 58.1-802

Exemptions for Merging LLCs

House Bill 2292 (Chapter 639) and Senate Bill 794 (Chapter 233) expand the current recordation tax exemption for merging corporations, partnerships and limited liability companies to include limited partnerships, and business trusts as defined by Internal Revenue Code. This bill would also clarify provisions of the Limited Liability Company Statutes found in *Va. Code* § 13.1.

Effective Date: July 1, 2007

Code Sections Amended: §§ 13.1-1002, 13.1-1020, 13.1-1123 and 58.1-811

TAX ADMINISTRATION AND COLLECTION

Collection of Taxes

House Bill 2135 (Chapter 750) prohibits TAX from appointing a debt collector to collect taxes that are less than 90 days delinquent. In addition, this bill requires that the initial assessment of any tax include a notice to the taxpayer of the taxpayer's right to apply to the Tax Commissioner for a correction in the assessment and the right to have the Tax Commissioner refrain from actions to collect the tax after receipt from the taxpayer of a notice of intent to file for such correction on the initial assessment.

Effective Date: March 23, 2007

Code Sections Amended: §§ 58.1-1803 and 58.1-1821

Withholding Tax; Information Furnished

Senate Bill 862 (Chapter 770) provides that an individual filing a withholding tax return, through the use of an electronic medium, on behalf of an organization is not required to furnish his social security number with the return. The bill also provides that such a person is required to provide his name, social security number, wages and taxes withheld in any file or report that includes the same information for all employees of the organization.

Effective Date: July 1, 2007

Code Section Added: § 58.1-478.1

LOCAL TAX

LEGISLATION

Tangible Personal Property Tax

Personal Property Tax Relief

House Bill 1880 (Chapter 314) expands the Personal Property Tax Relief Act definition of “qualifying vehicle” to include motor vehicles that are held in a private trust for nonbusiness purposes by an individual beneficiary.

Prior to this bill, qualifying vehicles were defined to include any passenger car, motorcycle, and pickup or panel truck that is determined to be (i) privately owned or (ii) leased pursuant to a contract requiring the lessee to pay the tangible personal property tax on such vehicle. All-terrain vehicles and off-road motorcycles titled with the Department of Motor Vehicles are not qualifying vehicles.

Effective Date: July 1, 2007

Code Section Amended: § 58.1-3523

Separate Classification For Certain Aircraft

House Bill 2013 (Chapter 88) and Senate Bill 1171 (Chapter 609) create a separate classification for local personal property tax purposes for aircraft that are (i) considered Warbirds, manufactured and intended for military use, excluding those manufactured after 1954, and (ii) used only for (a) exhibit or display to the general public (including such flights as are necessary for testing, maintaining, or preparing such aircraft for safe operation), or (b) air show and flight demonstrations (including such flights as are necessary for testing, maintaining, or preparing such aircraft for safe operation). Aircraft used for commercial purposes, including transportation and other services for a fee, are not included in this classification.

Effective Date: July 1, 2007

Code Sections Amended: §§ 58.1-3506 and 58.1-3916

Local Tax and License Fees on Motor Vehicles, Trailers and Semitrailers; Exemption for Certain Law Enforcement Officials

House Bill 2362 (Chapter 865) allows localities to exempt vehicles owned or leased by deputy sheriffs, police officers, officers of the State Police, salaried firefighters, or salaried emergency medical technicians from the local tax and license fee for one vehicle.

Effective Date: July 1, 2007

Code Section Amended: § 46.2-752

Separate Classification for Wireless Broadband

House Bill 2385 (Chapter 322) creates a separate classification for local property tax purposes for any tangible personal property owned and operated by a service provider who is not a Commercial Mobile Radio Service (cellular or other mobile telecommunications service) provider and who is not licensed by the FCC that is used to provide wireless broadband Internet service. “Wireless broadband Internet service” is defined as a service that enables customers to access, through a wireless connection at an upload or download bit rate of more than one megabyte per second, Internet service, as part of a package of services sold to customers.

Effective Date: July 1, 2007

Code Section Amended: § 58.1-3506

Duties of Treasurers

House Bill 2390 (Chapter 867) extends the lists of uncollected taxes which the treasurer must make to include the uncollected balances of previously billed tangible personal property taxes on vehicles that i) were owned by taxpayers, now deceased, upon whose estates no qualification has been made, or ii) were transferred to bona fide purchasers for value without knowledge, on the part of the persons so transferring, of the unpaid taxes.

Effective Date: January 1, 2007

Code Section Amended: § 58.1-3921

Personal Property Tax Relief: Qualifying Vehicles

House Bill 2975 (Chapter 815) requires commissioners of revenue to rely upon the registration of the vehicle and certificate of title by the Department of Motor Vehicles (“DMV”) in determining whether privately owned or leased vehicles qualify for tax relief under the Personal Property Tax Relief Act (“PPTRA”), unless the commissioner has information that DMV’s registration information is incorrect or incomplete

Effective Date: July 1, 2007

Code Section Amended: § 58.1-3523

Real Estate Tax

Classification of Energy Efficient Buildings

House Bill 2618 (Chapter 328) and Senate Bill 1051 (Chapter 354) create a separate classification of real property for certain energy efficient buildings. Localities are authorized to assess the Real Property Tax on energy efficient buildings at a lower tax rate than that imposed on the general class of real property. An energy efficient building is defined as any building that exceeds the energy efficiency standards prescribed in the Virginia Uniform Statewide Building Code by thirty percent. Any qualified licensed engineer or contractor, not related to the taxpayer, is authorized to determine whether the building qualifies to be certified as an energy efficient building. The licensed engineer or contractor will also certify to the taxpayer that he or she has the qualifications to provide the certification. The land on which energy efficient buildings are located is not part of this separate classification.

Effective Date: July 1, 2007

Code Section Added: § 58.1-3221.2

Exemptions for Elderly or Disabled

House Bill 1744 (Chapter 60) increase from \$72,000 to \$75,000 the maximum income limit a locality in Northern Virginia may impose in providing real estate tax exemptions or deferrals to the elderly or disabled. Previously, the maximum income limit was \$72,000. The Northern Virginia localities affected by this bill are the counties of: Arlington, Clarke, Fairfax, Fauquier, Loudon, Prince William and Stafford; the cities of Fairfax, Falls Church, Manassas, Manassas Park, and Alexandria, and the towns of Dumfries, Herndon, Leesburg, Purcellville, and Vienna.

Effective Date: July 1, 2007

Code Section Amended: § 58.1-3211

Real Estate Tax; Elderly and Permanently and Totally Disabled

Senate Bill 788 (Chapter 587) increases from \$52,000 to \$62,000 the maximum income limit localities in Central and Southeastern Virginia may impose in providing real estate tax exemptions or deferrals to the elderly or disabled. Under prior law certain localities in Central and Southeastern Virginia were permitted to extend either the income limitations from \$50,000 to \$52,000. The eligible localities include the counties of Chesterfield, Goochland and Henrico; and the cities of Charlottesville, Chesapeake, Norfolk, Portsmouth, Richmond, Suffolk and Virginia Beach.

Effective Date: July 1, 2007

Code Section Amended: § 58.1-3211

Deferral of Tax for Certain Elderly and Disabled

Senate Bill 1265 (Chapter 357) authorizes local governments to extend real estate tax relief for the elderly and disabled to dwellings jointly held between individuals, not all of whom are at least age 65 or permanently and totally disabled, provided their combined net financial worth does not exceed certain statutory limits. To qualify, the dwelling must be the sole dwelling of all joint owners. Under the provisions of this bill, the tax relief is prorated based on the percentage of ownership interest in the dwelling held by all joint owners who satisfy the age or disability requirements. This proration does not apply to property held jointly by husband and wife.

Under prior law, the only jointly owned dwellings that qualify for real estate tax relief for the elderly and disabled are dwellings jointly owned by a husband and wife. The tax relief is not prorated in such situations.

Effective Date: July 1, 2007

Code Sections Amended: §§ 58.1-3210, 58.1-3213 and 58.1-3215

Code Section Added: § 58.1-3211.1

Notice of Change in Assessment

House Bill 3093 (Chapter 344) and Senate Bill 848 (Chapter 353) provide that if the change in the local Real Property Tax assessment of property is due to the construction or addition of new improvements to the property, the notice of change in assessment for the property need not set out the following information otherwise required when the assessment is changed: 1) the tax rate; 2) the total amount of the new tax levy; 3) the percentage change in the new tax levy from the immediately prior one; 4) the time and place of the next meeting of the local governing body at which public testimony will be accepted on any real estate tax rate changes; or 5) information on when the date of the meeting will be set and where it will be publicized. Prior law required that whenever there is a reassessment of real estate or a change in the assessed value of real estate, a locality must provide notice by mail directly to each property owner whose assessment has been changed.

Effective Date: July 1, 2007

Code Section Amended: § 58.1-3330

Constitutional Amendment; Homestead Exemption

Senate Joint Resolution 398 (Chapter 843) authorizes the General Assembly to enact legislation that will allow localities, by ordinance, to exempt from real property taxes, or defer real property taxes on, up to 20% of the value of residential or farm property that is the owner-occupant's primary dwelling and lived in continuously. This is the first of two resolutions required for this amendment. If a second resolution is passed, the amendment will be submitted to a referendum.

Effective Date: To be determined

Code Section Amended: Article X § 6 of the Virginia Constitution

Business, Professional and Occupational License Tax

Motor Fuels Tax Exemption

House Bill 1695 (Chapter 85) and Senate Bill 772 (Chapter 834) amend the business, professional, and occupational license (“BPOL”) tax to clarify that taxpayers may continue to exclude amounts received for any federal or state excise taxes on motor fuels from the amount to be taxed.

For many years retail service stations collected fuel taxes at the pump and paid them to the appropriate government. In 2001 the point of imposition was moved to the distributor, but the change was not intended to affect the overall tax burden of retail service stations. The retailers continued to deduct fuel taxes from their gross receipts for BPOL tax purposes even though they no longer paid fuel taxes directly to the appropriate government.

Effective Date: January 1, 2001

Code Section Amended: § 58.1-3732

Machinery and Tools Tax

Uniform Statewide Statutory Classification for Idle Machinery

House Bill 2181 (Chapter 191) and Senate Bill 1151 (Chapter 159) provide that when valuing machinery and tools for purposes of the local machinery and tools tax, the locality must, upon written request of the taxpayer, consider any bona fide, independent appraisal submitted by the taxpayer.

These bills also codify TAX's administrative rulings holding that idle machinery and tools are to be classified as intangible personal property not subject to local taxation. The bills codify the definition of idle machinery and tools established by the Tax Commissioner in 1950 that provides that machinery and tools are idled if they have been discontinued in use continuously for at least one year prior to any tax day and there is no reasonable prospect that such machinery and tools will be returned to use during the tax year.

These bills also provide that machinery and tools will be deemed idle on and after January 1, 2007, if they have been specifically identified in writing by the taxpayer on or before the preceding April 1 as machinery and tools that the taxpayer intends to withdraw from service not later than the next tax day and as to which there is no reasonable prospect that such machinery and tools will be returned to use during the tax year. The alternate definition is intended to provide a clear-cut procedure for machinery and tools to be classified as idle. The nine months notice is intended to give localities sufficient time to adjust their budgets to compensate for revenue loss. The bills require taxpayers to notify the locality in writing on or before the next return due date without extension in the event that any machinery and tools defined as idle under this definition are returned to use. Such machinery and tools are subject to tax in the same manner as if they had been in use on tax day of the year in which such return to use occurs. Interest applies, but if the taxpayer provides timely written notice of return to use, no penalty is levied.

The bills require TAX to issue guidelines for the use of local governments in applying the provisions related to idle machinery and tools on or before January 1, 2008. In preparing such guidelines, TAX is not subject to the provisions of the Administrative Process Act for guidelines promulgated on or before January 1, 2008, but is required to cooperate with and seek the counsel of local officials and interested groups. After January 1, 2008, the guidelines will be accorded the weight of a regulation under § 58.1-205 and any amendments to the guidelines would be subject to the Administrative Process Act.

Effective Date: January 1, 2007

Code Section Amended: § 58.1-3507

MISCELLANEOUS TAXES

Virginia Coalfield Economic Development Authority Tax

Local Coal and Gas Road Improvement Tax; Extension of Sunset Provision

House Bill 1628 (Chapter 57) and Senate Bill 734 (Chapter 586) extend the sunset date from December 31, 2007, to December 31, 2012, for the local coal and gas road improvement tax. This tax is levied on businesses engaged in severing coal and gas from the earth at a rate not to exceed 1% of the gross receipts from the sale of such coal or gas. The revenues from this tax are used to improve public roadways and other local infrastructure in the locality.

Effective Date: July 1, 2007

Code Section Amended: § 58.1-3713

Transient Occupancy Tax

Maximum Amount Northampton County May Charge

House Bill 1714 (Chapter 86) and Senate Bill 904 (Chapter 596) allow the transient occupancy tax in Northampton County to be increased to 5%. The 3% additional revenue collected from Northampton County must be designated and spent for promoting tourism, marketing of tourism or initiatives that attract travelers to the county and generate tourism revenues in Northampton County.

Effective Date: July 1, 2007

Code Section Amended: § 58.1-3819

Maximum Amount Amherst County May Charge

Senate Bill 811 (Chapter 767) allows the transient occupancy tax in Amherst County to be increased to 5%. The 3% additional revenue collected from Amherst County must be designated and spent for promoting tourism, marketing of tourism or initiatives that attract travelers to the county and generate tourism revenues in Amherst County.

Effective Date: July 1, 2007

Code Section Added: § 58.1-3819

LEGISLATIVE

STUDIES

Study of Adoption Incentives in Other States

Senate Joint Resolution 377 requests that TAX examine the financial incentives offered by other states in order to support adoption. These incentives include tax credits, deductions, exemptions, and subsidy programs, including potential credits to pay for the college tuition of adopted children. TAX is required to complete its meetings by November 30, 2007, and to issue a report no later than the first day of the 2008 Regular Session of the General Assembly

Study Tax Impact of Electric Utility Re-regulation

House Bill 2068 (Chapter 888) and Senate Bill 1416 (Chapter 933) advances the expiration date of the capped rate period from December 31, 2010 to December 31, 2008, establishes a new mechanism for regulating the rates of investor owned electric utilities, and limits the ability of most consumers to purchase electric generation service from competing suppliers. The bills also direct TAX to conduct an analysis of the potential implications of the provisions of this act, as compared to previous law, on the system of taxation of the Commonwealth and the revenues generated thereby, and report its findings and any recommendations with respect thereto to the Commission on Electric Utility Restructuring by November 1, 2007.

Effective Date: July 1, 2007

Code Sections Amended: §§ 56-233.1, 56-234.2, 56-235.2, 56-235.6, 56-249.6, 56-576 through 56-581, 56-582, 56-584, 56-585, 56-587, 56-589, 56-590 and 56-594

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