

2014 LEGISLATIVE SUMMARY



Virginia
Department of Taxation

Craig M. Burns
Tax Commissioner

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INTRODUCTION

The **Legislative Summary** is published by the Department of Taxation (the Department) as a convenient reference guide to state and local tax legislation enacted by the 2014 Session of the General Assembly and Special Session I, including the reconvened session on April 3, 2014 and actions taken as of July 1, 2014. Please note that any legislation enacted after this date is not included. The **Summary** includes a general description of enacted legislation affecting:

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

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

In general, legislation 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 informational purposes only. The **Summary** is not a substitute for the actual state law, local ordinances, and the Department's regulations or guidelines. Additional information on new legislation affecting state taxes may be obtained from the Department as follows:

Telephone:

Individual Income Tax	(804) 367-8031
Corporate Income Tax	(804) 367-8037
Sales and Use Tax	(804) 367-8037
Employer Withholding Tax	(804) 367-8037
Voice/TDD/TYY	7-1-1

Live Chat: Click on the icon on the Department's website: www.tax.virginia.gov.

Email: Information may also be obtained by electronic mail as follows:

TaxIndReturns@tax.virginia.gov (Personal tax inquiries)
TaxBusQuestions@tax.virginia.gov (Business tax inquiries)

Emails sent to these addresses are not encrypted and therefore are not secure. The Department 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
July 2014**

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STATE TAX

LEGISLATION

GENERAL PROVISIONS

Disclosure of Certain Tax Information

House Bill 121 (Chapter 195) requires the Department of Taxation to, upon request by the General Assembly or any duly constituted committee of the General Assembly, disclose the total aggregate amount of income tax deductions or credits taken by taxpayers, regardless of how few taxpayers took the deduction or credit, or any other circumstances.

Generally, unless an exception applies, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to law, or any former officer or employee of any of the aforementioned offices is not permitted to divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. It is also unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document.

In order to prevent the identification of taxpayers in violation of the disclosure laws, the Department's policy was not to publish statistics if fewer than four taxpayers claimed a tax preference in a taxable year. This Act overturns this policy and requires the Department to publish information about the aggregate amount of income tax deductions and credits claimed when requested by the General Assembly, even in cases where fewer than four taxpayers claimed a particular deduction or credit. In such cases, the Department will disclose the aggregate amount claimed, but not the number of taxpayers claiming such tax preference.

Effective: July 1, 2014
Amended: § 58.1-3

Penalty for Unlawful Dissemination or Publication of Tax Information

House Bill 99 (Chapter 194) increases the penalty imposed for the unlawful dissemination or publication of tax information from a Class 2 misdemeanor to a Class 1 misdemeanor.

The increased penalty imposed by this Act applies to the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer

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or employee, or any person to whom tax information is divulged pursuant to law, or any former officer or employee of any of the aforementioned offices who impermissibly divulges tax information acquired in the performance of their duties. This penalty also applies to any person who disseminates, publishes, or causes to be published any confidential tax document which he knows or has reason to know is a confidential tax document.

Effective: July 1, 2014
Amended: § 58.1-3

Disclosure of Information Related to Certain Tax Credits

House Bill 672 (Chapter 470) allows the Virginia Port Authority and the Department of Taxation to exchange information regarding whether a qualified company, a related party, or a trade or business under common control has claimed Major Business Facility Job Tax Credits or International Trade Facility Tax Credits for the same employees or for capital expenditures at the same facility for which a Port of Virginia Economic and Infrastructure Development Zone Grant was requested or awarded.

Effective: July 1, 2014
Amended: §§ 15.2-1301; 62.1-132.3:2

Individual Estimated Payments

Item 270 (P) of the 2014 Appropriation Act (House Bill 5002, Special Session I, Chapter 2) permits taxpayers to file declarations of estimated tax with the Department of Taxation instead of local tax officials. This item also requires local tax officials with whom filing estimated income tax returns and payments have been filed to transmit such returns electronically.

Effective: Taxable years beginning on or after January 1, 2015 for the provision related to filing declarations, and January 1, 2015 for the provision related to the electronic filing.
Supersedes: § 58.1-493

Accelerated Due Date for Employer Withholding

Item No. 270 (L) of the 2014 Appropriation Act (House Bill 5002, Special Session I, Chapter 2) changes the due date for filing the annual employer withholding return and copies of

the written statements furnished to employees with the Department from February 28 to January 31 of each year. If the Tax Commissioner finds that this requirement creates an unreasonable burden on the taxpayer, waivers will be granted. All requests for waivers must be submitted to the Tax Commissioner in writing.

Effective: July 1, 2014
Supersedes: § 58.1-478

Elimination of the Corporate Preferences Report

Item 270 (K) of the 2014 Appropriation Act (House Bill 5002, Special Session I, Chapter 2) eliminates the requirement that the Department publish a report detailing the total amount of corporate income tax relief provided in Virginia. The previous requirement that a report be published will be satisfied through publication of the Department's Annual Report.

Effective: Reports after completion of the report due on October 1, 2013
Supersedes: § 58.1-202

Election to Receive Electronic 1099s

Item 270 (Q) of the 2014 Appropriation Act (House Bill 5002, Special Session I, Chapter 2) authorizes the Department to provide federal Form 1099-G in an electronic format to taxpayers who receive income tax refunds. The Department must ensure that taxpayers have the option to elect to receive an electronic version of the form.

Effective: July 1, 2014
Supersedes: § 58.1-9

Homeowner Association Corporate Income Tax Returns

Item 270 (L) of the 2014 Appropriation Act (House Bill 5002, Special Session I, Chapter 2) exempts homeowner associations ("HOAs") with no income tax liability from the mandatory electronic filing requirement that generally applies to corporations.

Effective: July 1, 2014
Supersedes: § 58.1-9
2013 Appropriation Act (HB 5001, Chapter 1) Item 273 (A)

INCOME TAX

Advancement of Virginia’s Fixed Date Conformity to the Federal Enhanced Earned Income Tax Credit

House Bill 1085 (Chapter 1) and Senate Bill 288 (Chapter 2) extend Virginia’s conformity to the federal enhanced Earned Income Tax Credit (“EITC”) to taxable years ending before January 1, 2018. Congress temporarily increased the federal EITC amount for individuals with three or more qualifying children from 40 percent to 45 percent and reduced the EITC marriage penalty by increasing the phase-out amount for married couples. In 2010, the General Assembly elected to conform to the enhanced federal EITC provisions for Taxable Year 2009 only. During the 2011, 2012, and 2013 sessions, the General Assembly elected to advance the date of conformity to these provisions one year at a time, to Taxable Years 2010, 2011, and 2012. This Act advances conformity to these Enhanced Earned Income Tax Credit provisions through Taxable Year 2017, when the federal enhanced provisions are currently set to expire.

Effective: Taxable years beginning on and after January 1, 2013, but before January 1, 2019
Amended: § 58.1-301

First-Time Homebuyer Savings Accounts

House Bill 331 (Chapter 729) allows an individual to designate a bank account as a tax exempt first-time home buyer savings account. An individual may then use distributions from the account for the purpose of paying or reimbursing the down payment and allowable closing costs for the purchase of a single-family residence in the Commonwealth by a qualified beneficiary.

Under this Act, all interest or other earned income attributable to such account may be excluded from the Virginia taxable income of the account holder. An account holder may claim a subtraction for any income that is taxed as (i) a capital gain for federal income tax purposes attributable to such person’s first-time homebuyer savings account and (ii) interest income or other income for federal income tax purposes attributable to such person’s first-time homebuyer savings account. However, any subtraction for an account holder’s income that was attributable to a first-time homebuyer savings account and taxed as a capital gain or interest income for

federal income tax purposes must be recaptured in the taxable year or years in which moneys or funds withdrawn from an account were used for any purpose other than the payment of eligible costs. This Act also requires an addition to an account holder's federal adjusted gross income for any loss related to a first-time homebuyer savings account that was deducted as a capital loss for federal income tax purposes by an account holder.

The amount of principal for which an account holder may claim first-time homebuyer savings account status is limited to \$50,000 per account. Only cash and marketable securities may be contributed to an account. The amount of principal and interest or other income on the principal that may be retained within an account is limited to \$150,000.

Effective: July 1, 2014; the provisions related to the addition and subtraction are effective for taxable years beginning on and after January 1, 2014
Amended: § 58.1-322

Tax Contributions for Restoration of Chesapeake Bay

Taxpayers are permitted to contribute their Virginia income tax refunds as donations to the Chesapeake Bay Restoration Fund. All moneys contributed to this fund must be used to help fund the Chesapeake Bay and its tributaries restoration activities in accordance with the tributary plans developed by the Secretary of Natural Resources or the Chesapeake Bay Watershed Implementation Plan.

House Bill 131 (Chapter 18) and Senate Bill 414 (Chapter 182) require the Secretary of Natural Resources to submit a report to the House Committee on Agriculture, Chesapeake and Natural Resources; the Senate Committee on Agriculture, Conservation and Natural Resources; the House Committee on Appropriations; the Senate Committee on Finance; and the Virginia delegation to the Chesapeake Bay Commission by November 1 of each year, describing the grants awarded from moneys deposited in the Chesapeake Bay Restoration Fund. This report must be posted on a website maintained by the Secretary of Natural Resources, along with a cumulative list of previous grant awards beginning with awards granted on or after July 1, 2014.

Effective: July 1, 2014
Amended: § 58.1-344.3

Tax Exemption for Interest Charged-Domestic International Sales Corporations

House Bill 480 (Chapter 26) and Senate Bill 515 (Chapter 186) exempt Interest Charged-Domestic International Sales Corporations ("IC-DISCs") from the corporate income tax, the minimum tax on telecommunications companies, and the tax imposed on electric

suppliers, pipeline distribution companies, gas utilities, and gas suppliers. An IC-DISC is a tax exempt entity that an export company may form under federal law to avoid federal corporate income taxation on commission payments made by the export company to the IC-DISC. Such payments are then subject to taxation at lower federal capital gain rates when the IC-DISC distributes the payments to its shareholders as dividends.

Under prior law, IC-DISCs were not exempt from taxation in Virginia, and were required to file and pay Virginia corporate income taxes even when exempt from federal taxation. These Acts exempt IC-DISCs from the Virginia corporate income tax, but the dividends paid to shareholders remain subject to Virginia income taxation.

Effective: Taxable years beginning on and after January 1, 2014
Amended: § 58.1-401

Clarification of the Intangible Holding Company Addback

Subject to limited exceptions, corporations are generally required to add back certain deductions taken for payments made to related members. § 3-5.10 of the 2014 Appropriation Act (House Bill 5002, Special Session I, Chapter 2) clarifies two of the exceptions to this addback requirement.

The first clarification relates to the exception for income that is subject to a tax based on or measured by net income or capital imposed by Virginia, another state, or a foreign government. This Act clarifies that this exception is limited and applies only to the portion of such income that is actually subject to tax in the state or foreign government.

The second clarification relates to the exception for a related member that derives at least one-third of its gross revenues from licensing to unrelated parties. This Act clarifies that such exception is limited and applies only to the portion of such income derived from licensing agreements for which the rates and terms are comparable to the rates and terms of agreements that the related member has actually entered into with unrelated entities. Both prongs of the statutory test must be satisfied in order for this exception to apply.

Because the language in this Act is intended to merely clarify existing law, these provisions are effective for taxable years beginning on and after January 1, 2004, when the addback requirement was initially effective. Nothing in this Act permits the Department or the taxpayer to open the statute of limitations of an otherwise closed taxable year.

Effective: July 1, 2014
Amended: § 58.1-439.20
2013 Appropriation Act (HB 5001, Chapter 1) § 3-5.11

Neighborhood Assistance Act Tax Credit: Cap Amount and Waiver of Affiliate Requirements

Senate Bill 563 (Chapter 712) increases the annual cap for the Neighborhood Assistance Act Tax Credit to the following amounts:

	FY 2015	FY 2016
Education Proposals	\$8.5 million	\$9 million
Other Proposals	\$7.5 million	\$8 million
TOTAL	\$16 million	\$17 million

For prior fiscal years, the annual cap was \$15 million, with \$8 million allocated to education proposals and \$7 million allocated to other proposals.

This Act also waives the requirement that, for education proposals, at least 50 percent of the persons served by the neighborhood organization and its affiliates be low-income persons or eligible students with disabilities and at least 50 percent of the revenue of the neighborhood organization and each of its affiliates be used to provide services to low-income persons or to eligible students with disabilities. This waiver is effective for tax credit allocations for Fiscal Years 2015 through 2020 and applies only to a neighborhood organization that received a tax credit allocation for Fiscal Year 2012 and meets the requirements, provided that none of its affiliates receives tax credits for any program year of such five-year period.

Effective: July 1, 2014
Amended: § 58.1-439.20

Neighborhood Assistance Act Tax Credit: Low-Income Threshold for Neighborhood Organizations

House Bill 737 (Chapter 416) increases the percentage of persons served by a neighborhood organization that must be low-income persons from 40 percent to 50 percent. This change applies to neighborhood organizations that submit proposals other than education proposals, which were previously required to serve at least 40 percent low-income persons in

order to qualify to receive tax credit allocations. Such requirement is consistent with the existing low-income requirement for neighborhood organizations that submit education proposals.

Effective: July 1, 2014
Amended: § 58.1-439.20

Neighborhood Assistance Act Tax Credit: Extended Deadline for Audit, Review, or Compilation

House Bill 1179 (Chapter 47) and Senate Bill 591 (Chapter 189) prohibit a proposal for an allocation of Neighborhood Assistance Act Tax Credits from being deemed untimely solely because the neighborhood organization's required audit, review, or compilation was not submitted by the proposal filing deadline. A neighborhood organization's proposal will be considered timely filed as long as its required audit, review, or compilation is submitted to the Department of Education or Department of Social Services, as applicable, within the 30-day period immediately following the proposal filing deadline.

Effective: Because this legislation contained an emergency clause, it was effective upon its enactment date, February 27, 2014
Amended: § 58.1-439.20

Research and Development Expenses Tax Credit

House Bill 1220 (Chapter 227) and Senate Bill 623 (Chapter 306) increase the annual cap for the Research and Development Expenses Tax Credit from \$5 million to \$6 million. These Acts also increase the credit amount to 15 percent of the first \$234,000 in Virginia qualified research and development expenses paid or incurred by the taxpayer, or 20 percent of the first \$234,000 in such expenses if the Virginia qualified research was conducted in conjunction with a Virginia public or private college or university, to the extent the expenses exceed the Virginia base amount for the taxpayer. This is an increase from the prior credit amounts of 15 percent for the first \$167,000 of expenses, or 20 percent of the first \$175,000 of expenses for research conducted in conjunction with a Virginia college or university.

If the total amount of approved credits is less than \$6 million for any taxable year, the Department will continue to allocate additional credits on a pro rata basis to taxpayers that are already approved for the credit until the credit cap is met. The additional credit amount under these Acts is equal to 15 percent of the second \$234,000 in Virginia qualified research and development expenses paid or incurred by the taxpayer or 20 percent of the second \$234,000

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in such expenses if the Virginia qualified research was conducted in conjunction with a Virginia public or private college or university.

These Acts also allow a partnership, limited liability company, or electing small business corporation (S corporation) to elect to receive and claim the credit at the entity level. If this election is not made, such credits will continue to be allocated to the individual partners, members, or shareholders in proportion to their ownership interests in such entities or in accordance with a written agreement entered into by such individual partners, members, or shareholders.

These Acts require taxpayers applying for the credit to provide the following information to the Department:

- The number of full-time employees employed by the taxpayer in the Commonwealth during the taxable year for which the credit is sought;
- The taxpayer's sector or sectors according to the 2012 edition of the North American Industry Classification System (NAICS) as published by the United States Census Bureau;
- A brief description of the area, discipline, or field of Virginia qualified research performed by the taxpayer;
- The total gross receipts or anticipated total gross receipts of the taxpayer for the taxable year for which the credit is sought; and
- Whether the Virginia qualified research was conducted in conjunction with a Virginia public or private college or university.

These Acts then require the Department to report such information to the Governor and any member of the General Assembly upon request. Such report must be made, regardless of the number of taxpayers applying for the credit.

These Acts also extend the sunset date for the Research and Development Expenses Tax Credit from December 31, 2015 to December 31, 2018.

Effective: Taxable years beginning on and after January 1, 2014, except that the provisions increasing the annual credit cap would be effective for fiscal years beginning on or after July 1, 2014
Amended: § 58.1-439.12:08

Tax Credit for Donations to Scholarship Foundations

Senate Bill 269 (Chapter 176) allows taxpayers to claim the Education Improvement Scholarships Tax Credit for the taxable year in which they made monetary or marketable

securities donations to qualifying scholarship foundations. This is a change from the prior law, which required taxpayers to wait to claim the credit until the return filed for the taxable year following the year of donation. Accordingly, under this Act, taxpayers may claim credits on their Taxable Year 2014 returns for donations made during both Taxable Years 2013 and 2014.

Effective: Donations made in taxable years beginning on and after January 1, 2014
Amended: § 58.1-439.26

Virginia Port Tax Credits

House Bill 873 (Chapter 423) reallocates the annual credit cap amounts for the port-related tax credits by increasing the annual cap for the International Trade Facility Tax Credit from \$250,000 to \$1.25 million, and reducing the annual cap for the Barge and Rail Usage Tax Credit from \$1.5 million to \$500,000.

This Act also expands the International Trade Facility, Barge and Rail Usage, and Virginia Port Volume Increase Tax Credits to allow taxpayers to claim such credits for roll-on/roll-off cargo, and makes several technical corrections to the three credits that take this change into account. This Act also makes the following technical changes to the International Trade Facility Tax Credit:

- Lowers the threshold for the increased amount of cargo that must be transported through maritime port facilities in the Commonwealth during the taxable year in order to qualify for credit from 10 percent to 5 percent;
- Expands the tax credit to cargo transported through any publicly or privately owned cargo facility located within the Commonwealth; and
- Eliminates an obsolete provision that allows an increased credit amount for international trade facilities that create jobs or make capital investments in a tobacco-dependent locality

This Act permits qualifying taxpayers to claim both the Barge and Rail Usage Tax Credit and Port Volume Increase Tax Credit for the same cargo, so long as the taxpayer meets the criteria of both credits.

Additionally, this Act requires the Department of Taxation to annually disclose information to the Virginia Port Authority regarding the International Trade Facility and the Barge and Rail Usage Tax Credits.

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Effective: Taxable years beginning on and after January 1, 2014, and the Commonwealth's 2014-2015 fiscal year and all fiscal years thereafter
Amended: §§ 58.1-439.12:06, 58.1-439.12:09, and 58.1-439.12:10

Motion Picture Production Tax Credit

House Bill 460 (Chapter 730) increases the Motion Picture Production Tax Credit cap from \$5 million per biennium to \$6.5 million per fiscal year, beginning in Fiscal Year 2015.

This Act creates an exception to the secrecy of information law by requiring the Department to publish specified information regarding the Motion Picture Production Tax Credit in its report to the General Assembly, regardless of how many taxpayers claim the credit.

This Act also imposes a January 1, 2019 sunset date on the Motion Picture Production Tax Credit.

Effective: July 1, 2014
Amended: § 58.1-439.12:03

TOBACCO TAXES

Tax Stamp Compliance Reporting

Item 269 (C) of the 2014 Appropriations Act (House Bill 5002, Special Session I, Chapter 2) requires the Department of Taxation to report on any irregularities that may occur during the stamping of cigarettes during the 2014 tax year between April 1, 2014 and June 30, 2015 that cause stamping agents to incur costs above \$500.

Effective: July 1, 2014

Changes in the Administration and Enforcement of Cigarette Tax Laws

Several Acts amended the laws related to the administration and enforcement of cigarette tax laws. House Bill 853 (Chapter 422) modifies the administration and enforcement of Virginia's cigarette laws as described below.

- It allows for investigations by a multi-jurisdiction grand jury for violations of cigarette tax laws;
- Counterfeit or unstamped cigarettes or cigarettes in the possession of an unauthorized holder may be assigned by court order for use by a law enforcement undercover operation;
- A person convicted of possessing unstamped cigarettes is ineligible to be an authorized holder of cigarettes;
- Members of federal, state, and local law enforcement are exempt from cigarette taxes when the cigarettes are used in the performance of investigatory duties;
- Manufacturers and distributors of cigarettes are allowed to ship or deliver unstamped cigarettes to a law enforcement agency for use in the performance of its duties;
- Where a sealed pack is labeled as containing cigarettes, such labeling constitutes prima facie evidence that the pack is a pack of cigarettes;
- Increases the civil penalties for possession with intent to distribute tax paid contraband cigarettes by a person other than the authorized holder from a maximum of \$5,000 for a first offense, \$10,000 for a second offense, or \$50,000 for a third or subsequent offense to a minimum of \$5,000 for a first offense, \$10,000 for a second offense or \$50,000 for a third or subsequent offense within a 36 month period.

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- It provides that any undercover operation that makes use of counterfeit cigarettes will ensure that the counterfeit cigarettes remain under the control and command of law enforcement and will not be distributed to a member of the general public who is not the subject of a criminal investigation.

Senate Bill 478 (Chapter 463) substantially increases the civil penalties for possession with intent to distribute tax-paid contraband cigarettes by a person other than an authorized holder. This Act increases the civil penalties for possession with intent to distribute tax-paid contraband cigarettes by a person other than the authorized holder from a maximum of \$5,000 for a first offense, \$10,000 for a second offense, or \$50,000 for a third or subsequent offense to a minimum of \$5,000 for a first offense, \$10,000 for a second offense or \$50,000 for a third or subsequent offense within a 36 month period.

Senate Bill 489 (Chapter 751) clarifies that the civil and criminal penalties for possession with intent to distribute tax-paid contraband cigarettes do not apply to authorized holders of such cigarettes.

Senate Bill 364 (Chapter 457) provides that persons who have been convicted of possessing unstamped cigarettes for the purpose of evading taxes and persons convicted of possession with intent to distribute tax-paid, contraband cigarettes are not eligible to be authorized holders of cigarettes.

Senate Bill 365 (Chapter 458) provides that counterfeit or unstamped cigarettes that have been forfeited to law enforcement do not have to be destroyed, but may be used by law enforcement for the conduct of undercover operations. The Act also allows law-enforcement agencies to possess for investigative purposes cigarettes without tax stamps.

Senate Bill 352 (Chapter 301) provides that where a sealed pack is labeled as containing cigarettes, such labeling shall be prima facie evidence that the contents of the pack are cigarettes for purposes of prosecuting tax violations.

Effective: July 1, 2014
Amended: §§ 19.2-386.21, 58.1-1000, 58.1-1001, 58.1-1012, and 58.1-1017.1
Adds: § 58.1-1017.2

Civil Penalties for Unlawful Possession of Untaxed Tobacco Products

House Bill 898 (Chapter 38) and Senate Bill 285 (Chapter 177) provide civil penalties for the possession, transportation, or sale of untaxed tobacco products in a manner as to knowingly or intentionally evade the Tobacco Products Tax.

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The civil penalty structure is as follows:

- First Violation: \$2.50 per tobacco product, up to \$500.
- Second Violation: \$5 per tobacco product, up to \$1,000.
- Third and Subsequent Violations: \$10 per tobacco product, up to \$50,000.
- Willful Intent to Defraud: \$25 per tobacco product, up to \$250,000

The Department is not required to seize untaxed tobacco products. Untaxed tobacco products continue to be subject to seizure by law-enforcement officers

Under current Virginia law, tobacco products possessed, transported, or sold in a manner as to knowingly or intentionally evade the tax are subject to seizure, forfeiture, and destruction by the Department of Taxation or any law-enforcement officer.

Effective: July 1, 2014
Amended: § 58.1-1021.04:3

RETAIL SALES AND USE TAX

Accelerated Sales Tax Phase Out

Section 3-5.07 of the 2013 Appropriation Act (2014 Special Session I, Chapter 1) increases the annual threshold for dealers and direct payment permit holders (“Dealers”) to make accelerated sales tax payments from \$26 million of taxable sales and/or purchases to \$48.5 million of taxable sales and/or purchases effective for the June, 2014 payment. Any dealer with taxable sales and/or purchases exceeding the threshold is required to make a payment in June equal to 90 percent of its Retail Sales and Use Tax liability for June of the previous year. This tax payment is required to be remitted on or before June 25, 2014, if the payment is made by other than electronic transfer, and by June 30, 2014, if payments are made by electronic fund transfer. Affected Dealers are entitled to take a credit for this amount on the return for June of the current year due July 20. The Department will notify all affected Dealers and provide them with payment instructions and a payment voucher for the additional payment.

Section 3-5.07 of the 2014 Appropriation Act (2014 Special Session I, Chapter 2) decreases the annual threshold for accelerated sales tax payments to the 2013 threshold of \$26 million of taxable sales and/or purchases effective for the June, 2015 payment and sets a threshold of \$48.5 million of taxable sales and/or purchases for the June, 2016 accelerated sales tax payment.

The failure to make a timely and full payment of the accelerated sales tax will subject the Dealer to a penalty of six percent of the amount of tax underpayment. No other penalty for delinquent returns or payments will apply except with respect to fraudulent returns.

Effective: For the Accelerated Sales Tax Payment due beginning June 2014

Automated Sales Suppression Devices

House Bill 829 (Chapter 785) and Senate Bill 611 (Chapter 723) prohibit and designate as a Class 1 misdemeanor the willful use of a device or software to falsify the electronic records of cash registers and other point-of-sale systems, or otherwise manipulate transaction records in order to affect any state or local tax liability. Violators of this Act are subject to a \$20,000 state civil penalty, a \$20,000 local civil penalty, or both, depending upon whether the software or device is used to affect a state or local tax liability or both. The civil and criminal penalties provided by this Act are in addition to those provided under current law.

Under current law, retailers that make a false or fraudulent return with intent to evade the Retail Sales and Use Tax are guilty of a Class 1 misdemeanor, and subject to a maximum of one year in jail, a fine of not more than \$2,500, or both. In addition, such retailers are subject to a civil penalty of 50% of the tax assessed.

Effective: July 1, 2014
Amended: §§ 58.1-1814 and 58.1-3907

Satellite Television Programming Equipment

Senate Bill 100 (Chapter 359) imposes the Retail Sales and Use Tax on separately stated charges for equipment leased or sold by a provider of satellite television programming to a customer of such programming. Sale of such equipment to a provider of satellite television programming for subsequent sale or lease to its customers is deemed a sale for resale.

Under current law, satellite television programmers, not their customers, are liable for the Retail Sales and Use Tax on tangible personal property used and consumed in connection with the provision of the service, regardless of whether the tangible personal property will be subsequently sold or leased to customers of the satellite television programmer.

Effective: July 1, 2014
Amended: 58.1-602

Public Facilities Entitlement to Sales Tax Revenues

Senate Bill 673 (Chapter 551) requires the Comptroller to transfer sales tax revenue generated in a qualifying public facility that consists of more than one building or structure on a quarterly basis beginning with the first quarter in which any sales tax revenue is generated by transactions taking place at any building or structure within the public facility, whether or not construction of any portion, phase, building, or structure of such public facility has been completed. This Act also specifies that the sales tax entitlement for public facilities continues for either the lifetime of the bonds issued to fund the costs of the facility or any refinancing or refunding of the bonds, but in no event exceeding 35 years from the initial date that bonds were issued.

Under current law, any municipality that has issued bonds during a specified time period to pay the cost of any public facility is entitled to a portion of the sales tax revenues generated by transactions taking place in the public facility in order to pay the costs of bonds issued to finance the facility. Qualifying public facilities include auditoriums, coliseums, convention centers, conference centers, and certain hotels and sports facilities located in the Town of Wise

and the Cities of Bristol, Fredericksburg, Hampton, Lynchburg, Newport News, Norfolk, Portsmouth, Richmond, Roanoke, Salem, Staunton, Suffolk, Virginia Beach, and Winchester.

Effective: July 1, 2014

Amended: 58.1-608.3

Sales and Use Tax Revenue Generated by Certain Public Facilities

Senate Bill 579 (Chapter 718) modifies the public facility entitlement that allows certain municipalities a portion of sales tax revenues generated in specified public facilities to include sports complexes consisting of a minor league baseball stadium, related tournament training, and parking facilities, provided the municipality owns a component of the sports complex. This Act requires that all sales tax revenues generated in these sports complexes be used solely to repay bonds issued to finance the municipality-owned component. Finally, this Act repeals the existing entitlement available for publicly-owned sports facilities designed for use primarily as baseball stadiums for a minor league professional baseball affiliated team, and their attached structures.

Effective: July 1, 2014

Amended: § 58.1-608.3

City of Virginia Beach; Sports or Entertainment Arena

House Bill 1267 (Chapter 738) and Senate Bill 571 (Chapter 742) authorize the City of Virginia Beach to contract for the construction, development, or maintenance of, and regulate the use and operation of a qualifying sports arena or conference center. This Act allows Virginia Beach to designate funds made available for purposes of the sports facility or conference center to the construction, development, operation or maintenance of the facility; requires creation of an Arena Financing Fund if bonds are issued or a contract is entered into in furtherance of the arena; and limits the use of any revenues placed in the Fund to the payment of debt service on bonds or to meet contractual obligations for the construction, development, operation and maintenance of the facility. In addition, this Act requires that the City provide the State Treasurer with any contracts that include the dedication of the funds before the contract is executed. This Act also limits the use of the City's sales tax entitlement revenues to the payment of debt service or to meet contractual obligations for the construction, development, operation and maintenance of the facility. Finally, this Act extends the deadline for the City's sales tax entitlement, bond authority, and other authority related to the sports facility or conference center, by providing that if the City (or Development Authority) has entered into a

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contract for the construction, development, operation or maintenance of the facility by January 1, 2018, then its authority will expire on the earliest of: 1) the maturity date of the bonds; 2) the expiration of the City's contractual obligations for the construction development, operation or maintenance of the facility; or 3) July 1, 2043.

Under current law, the City of Virginia Beach is entitled to a portion of state sales and use tax revenues generated as a result of the construction, operation or conduct of trade or business occurring within a qualifying arena or stadium constructed for the purpose of: 1) conducting games by an NHL or NBA team; or 2) holding conferences and entertainment events. This entitlement will expire on January 1, 2018, unless the City of Virginia Beach has either: 1) executed a lease with an NHL or NBA team; or 2) issued bonds for an arena in order to hold conferences and entertainment events, in which case, the entitlement will expire on the earliest of the maturity date of bonds issued by the City or the Development Authority or July 1, 2043.

Effective: July 1, 2014
Amended: §§ 15.2-5922 through 15.2-5927

INSURANCE PREMIUM LICENSE TAX

Refunds of Surplus Funds for Insurer Insolvencies

Senate Bill 70 (Chapter 154) transfers administration of the refund process for surplus funds paid to the Virginia Life, Accident and Sickness Insurance Guaranty Association (“the Guaranty Association”) from the State Corporation Commission (“SCC”) to the Department.

Background

The Guaranty Association is a nonprofit legal entity that protects Virginia residents who are holders of life and health insurance policies, and individual annuity contracts from a member insurer, in the event that such member insurer becomes impaired or insolvent. The Guaranty Association is composed of all insurers licensed to sell life insurance, accident and health insurance, and individual annuities in Virginia. When a member insurer becomes insolvent, the Guaranty Association assesses all other members for any amounts necessary.

A member insurer that receives an assessment from the Guaranty Association has the option to show a certificate of contribution as an asset on its financial income statement. Such amounts must be amortized over the 10 calendar years following the year the contribution was paid, in an annual amount equal to 10 percent of the amount of the contribution. The member insurer may then claim the Guaranty Fund Assessment Tax Credit annually over a 10-year period in an amount equal to the amortized amount for each year.

In cases where the Guaranty Association has surplus funds with respect to an insolvency, the Guaranty Association must notify its member insurers. Under prior law, if any member insurer contended that it was entitled to any portion of the surplus refunded to the General Fund in order to recover assessment costs that were not otherwise amortized and offset, then the member insurer was required to present evidence of such entitlement to the State Corporation Commission. If the SCC determined that a member insurer is entitled to a portion of the surplus funds, then the State Treasurer was required to pay to the member insurer the sum that the SCC determined that the member insurer is entitled to receive.

Legislation

This Act transfers administration of this process from the SCC to the Department. Specifically, this Act requires the Guaranty Association to pay any remaining surplus funds to the Department for deposit with the State Treasurer for credit to the General Fund. This Act also requires any member insurer contending that it is entitled to recover assessment costs to

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present evidence of such entitlement to the Department. If the Department determines that a member insurer is entitled to a portion of the surplus funds, the Department must notify the State Treasurer, which will then pay the member insurer the sum that the Department determines that the member insurer is entitled to receive.

Effective: July 1, 2014

Supersedes: §§ 38.2-1611.1; 38.2-1705

LOCAL TAX

LEGISLATION

GENERAL PROVISIONS

Allocation of Revenues

House Bill 534 (Chapter 29) and Senate Bill 488 (Chapter 709) establish a special tax district beginning July 1, 2014, in King William County with a boundary of the geographical area of the County's school division, excluding the Town of West Point. The district is to be used to pay all or any portion of the County's expenditures for operating the school division. The special tax district will remain in effect unless the Town of West Point ceases to operate a separate school division. The Board of Supervisors is authorized to levy and collect taxes upon any taxable property in the tax district, including, but not limited to, real estate, mineral lands, tangible personal property, merchants' capital, and machinery and tools. The taxes levied and collected by the County, other than those in the special tax district for the support of the County school division and otherwise provided by law, are required to be uniform. The Town must pay for its share of expenditures to operate the Town school division from property taxes and other local, state, and federal revenues received by the Town.

Additionally, this Act allows the Board of Supervisors to appropriate to the County school division all or any portion of the revenue derived from i) local or state taxes collected in part within the Town but allocated between the County and the Town by state law and ii) non-property taxes collected exclusively from sources outside the Town by the County. The County Board of Supervisors is authorized to appropriate recordation taxes and state payments to reimburse the County for personal property taxes pursuant to the Personal Property Tax Relief Act to the County school division provided that the County pays the Town a pro rata share of the revenues attributable to the Town. The County Board of Supervisors is also authorized to appropriate revenues from sources collected within both the County and Town to the County school division provided that the County pays the Town an amount equal to the total amount of other revenues appropriated to the school division multiplied by the ratio of taxable property assessments in the Town divided by the total taxable property assessments in the County as a whole.

Under current law, in any county in which an incorporated town operates a separate school district under a town school board of three members appointed by the town council, the county treasurer must pay into the town treasury for general governmental purposes an amount of local sales and use tax revenues received by the county equal to the ratio of school age population of such town to the school age population of the entire county.

Effective: July 1, 2014
Amended: § 1 of Chapter 29 of the Acts of Assembly 2014

OTHER LOCAL TAXES

Local Meals Tax and Food and Beverage Tax

House Bill 1099 (Chapter 673) exempts from county food and beverage and city meals taxes, the first \$100,000 in gross receipts per calendar year of meals sold by nonprofit entities at fundraising sales, beginning with the fourth such sale in a calendar year, and excluding gross receipts from the first three sales. This Act requires that the gross proceeds from such sales be used by the organization exclusively for nonprofit, educational, charitable, benevolent, or religious purposes in order for the exemption to apply.

Under current law, volunteer fire departments and rescue squads, nonprofit religious bodies, and educational, charitable, fraternal or benevolent organizations may make sales of meals as a fundraising activity exempt of the local food and beverages and meals taxes, provided such sales occur on an occasional basis, not exceeding three times per calendar year, and provided the proceeds of such sales are used by the organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes.

Effective: July 1, 2014
Adds: §§ 58.1-3833, 58.1-3840

Business, Professional, and Occupational License Tax; Appeals of Classification

House Bill 497 (Chapter 27) allows taxpayers to appeal to the locality and the Department the Business, Professional, and Occupational License ("BPOL") tax classification or subclassification applicable to a business, regardless of whether the appeal is in conjunction with an appealable event such as an assessment, examination, audit, or any other action taken by the locality. Additionally, the Act allows taxpayers to request written rulings from the locality and the Department regarding the classification or subclassification applicable to a business.

Currently, in order to appeal BPOL tax issues, taxpayers must file an Application for Review within one year of the last day of the tax year for which such assessment is made or within one year from the date of the appealable event, whichever is later. Upon the timely filing of an Application for Review, the local assessing officer makes a final written determination on the taxpayer's application. The taxpayer then has 90 days from the date of the local assessing officer's final written determination to appeal that determination to the Department of Taxation.

Effective: July 1, 2014
Amended: § 58.1-3703.1

TRANSIENT OCCUPANCY TAXES

Authorizes Highland County to Levy Transient Occupancy Tax

Senate Bill 573 (Chapter 188) adds Highland County to the list of counties that are currently authorized to impose the transient occupancy tax at a maximum rate of five percent. Revenues from the portion of tax in excess of two percent would be required to be used solely for tourism or marketing of tourism.

Under current law, any county may impose a transient occupancy tax at a maximum rate of two percent upon the adoption of an ordinance, on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms. In addition, Virginia law separately identifies those counties that are authorized to impose a transient occupancy tax at a maximum rate of five percent. The revenues for the portion of the tax over two percent must be designated and spent solely for tourism, marketing of tourism, or initiatives that attract travelers to the locality and generate tourism revenues in the locality.

Effective: July 1, 2014
New: § 58.1-3819

REAL ESTATE TAX

Real Property Tax Exemption for Spouses of Servicemembers Killed in Action

House Bill 46 (Chapter 757) provides for a referendum at the November 4, 2014 election to approve or reject an amendment to the Constitution of Virginia to allow the General Assembly to exempt from taxation the real property of the surviving spouse of a servicemember killed in action, where the surviving spouse occupies the real property as his or her principal place of residence and has not remarried. In the event that the referendum is agreed to by voters, this Act also provides the necessary statutory authorization for localities to implement the new exemption beginning on or after January 1, 2015. To qualify for the exemption (i) the surviving spouse cannot remarry, (ii) the surviving spouse must continue to occupy the same real property as his principal residence, and (iii) the assessed value of the real property dwelling must be less than the average assessed value of all dwellings located within the county that are situated on property zoned as single family residential. Counties, cities, and towns must provide for the exemption on the qualifying dwelling and up to one acre of land upon which the dwelling is situated, unless the locality provides for other exemptions or deferrals of real property taxes of more than one acre of land. If the real property is jointly owned by one or more persons and not all persons qualify for the exemption, then the exemption must be prorated based on the ownership interest of all joint owners. The surviving spouse must claim the exemption by filing forms and documentation with the local commissioner of revenue to demonstrate his qualifications. The Commissioner of the Department of Veterans Services shall promulgate rules and regulations governing the administration and implementation of the property tax exemption, to include, but not be limited to, written guidance for surviving spouses and commissioners of the revenue and responding to requests for information.

Effective: July 1, 2014
Amended: §§ 58.1-3219.5, 58.1-3219.7 and 58.1-3360
Adds: §§ 58.1-3219.9 through 58.1-3219.2

Real Property Tax; Nonjudicial Sale of Tax Delinquent Real Properties; Statute of Limitations

House Bill 499 (Chapter 28) reduces from five years to three years the period of tax delinquency before a local treasurer or other officer may publicly auction any unimproved parcel of real property that is assessed at less than \$10,000 and that either measures less than 4,000 square feet or is a parcel of any size that is determined to be unsuitable for building due to its size, shape, zoning, or soils.

2014 LEGISLATIVE SUMMARY – LOCAL TAXES

Under current law, local treasurers may publicly auction small parcels on which delinquent taxes have accrued for five years or more. The parcels must be assessed at less than \$10,000 and be either (1) less than 4,000 square feet (.0918 acre), or (2) a parcel of any size that the locality's zoning administrator has determined to be unsuitable for building due to the size, shape, zoning, or soils of the parcel.

Effective: July 1, 2014
Adds: § 58.1-3975

Real Estate with Delinquent Taxes

Senate Bill 68 (Chapter 519) modifies the criteria for tax-delinquent real property to be conveyed to the locality in lieu of a sale at public auction in the Cities of Norfolk, Richmond, Hopewell, Newport News, Petersburg, and Hampton. Under the terms of this Act, parcels in those localities with an assessed value of up to \$100,000 with taxes and liens, including penalty and accumulated interest, in excess of 20 percent, or with taxes alone in excess of 10 percent of the assessed value of the parcel could be conveyed to the locality in lieu of a sale at public auction, provided: 1) the property is not an occupied dwelling; and 2) the locality enters into an agreement to sell the parcel to a nonprofit organization that will renovate the property or construct a single-family dwelling to be sold to persons with income below the area median income.

Under current law, the Cities of Norfolk, Richmond, Hopewell, Newport News, Petersburg, and Hampton are authorized to have a special commissioner convey real estate in lieu of a public sale at auction when: 1) the tax-delinquent property has an assessed value of \$50,000 or less; and 2) the percentage of taxes and other liens, together with penalty and accumulated interest, exceeds 35 percent of the assessed value of the parcel or the percentage of taxes alone exceeds 15 percent of the assessed value of the parcel.

Effective: July 1, 2014
Amended: § 58.1-3970.1

Real Property Tax; Change in Assessments

House Bill 525 (Chapter 71) and Senate Bill 480 (Chapter 802) require that additional information be included in the notice of a change in assessment or reassessment for real property taxes issued by localities. The notice must include: 1) the current assessed values and the immediately preceding two assessed values of land and 2) the tax rates and the amount of the total tax levies for the immediately preceding two tax years. In addition, for all notices

except those where the change in assessment is solely the result of construction or addition of new improvements to the real estate, this Act requires that the notice identify the new tax levy computed using the current tax rate and the amount of the total tax levies and the percentage changes from the immediately two preceding tax years. This Act also requires that the notice informs each property owner of: 1) the right to view and make copies of records maintained by the local assessment office; and 2) the specific location in the Code of Virginia that explains the procedure for accessing these records.

Under current law, the information contained in the notice of assessment is required to include only the current and immediately preceding appraisal and assessment values, tax rates and percentage changes in the new tax levy from the immediately preceding year.

Effective: July 1, 2014
Amended: § 58.1-3330

Real Property Tax; Board of Equalization Alternate Members

House Bill 149 (Chapter 269) authorizes regular members of temporary or permanent boards of equalization to apply to the board for relief in the same manner as any other taxpayer, and, in such an event, allows the board of equalization chairman to appoint an additional alternate member to hear and vote on the regular member's application for relief. Under the terms of this Act, if the chairman is the member applying for relief, then the vice chairman will appoint the alternate member.

Under current law, at the request of a local governing body, circuit courts may appoint alternate members to hear applications and vote in the place of a regular member that must be absent from or abstain from any proceeding at a meeting. Circuit courts within most localities are authorized to appoint a three-to-five member board of equalization, whose purpose is to hear complaints regarding a lack of uniformity or errors in acreage in a real property assessment and complaints that real property is assessed at more than fair market value. Once the board hears these complaints, it is authorized to increase, decrease, or confirm assessments based on fairness.

Effective: July 1, 2014
Amended: §§ 58.1-3370, 58.1-3371 and 58.1-3373

Real Property Tax; Board of Equalization in the City of Richmond

House Bill 225 (Chapter 61) and Senate Bill 66 (Chapter 607) authorize the City of Richmond to enact an ordinance providing for a temporary or permanent board of equalization to hear real property assessment complaints, in lieu of a board of review.

Under current law, the City of Richmond and any other city determined to have a population in excess of 175,000 in the 1930 census must use a board of review for the purpose of hearing complaints concerning real property assessments.

Effective: July 1, 2014
Adds: § 58.1-3373.1

Solar Energy Equipment Exempt from Local Taxation

House Bill 1239 (Chapter 737) and Senate Bill 418 (Chapter 259) provide a mandatory exemption from local taxation for solar energy equipment, facilities and devices owned or operated by a business that collect, generate, transfer, or store thermal or electric energy, whether or not such property has been certified to the Department by a state certifying authority. The exemption for solar photovoltaic systems applies only to projects equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity. The Acts also define certified solar energy equipment, facilities, and devices that the governing body of any locality is authorized to exempt or partially exempt as equipment, facilities and devices designed and used primarily for the purpose of collecting, generating, transferring, or storing thermal or electric energy.

Under current law, the governing body of any locality is authorized but not required to exempt or partially exempt certified solar energy equipment, facilities and devices from local taxation. Local building departments are responsible for certifying that such solar energy equipment was designed and used primarily for the purpose of providing for the collection and use of incident solar energy for water heating, space heating or cooling or other application which would otherwise require a conventional source of energy such as petroleum products, natural gas, or electricity.

Effective: July 1, 2014
Amends: §§ 58.1-3660 and 58.1-3661

Exemption for Religious Bodies from Real Property and Tangible Personal Property Tax

House Bill 156 (Chapter 555) and Senate Bill 175 (Chapter 615) specify that the real property tax exemption for churches and religious bodies includes: 1) property used primarily for outdoor worship activities; 2) property used for ancillary and accessory purposes as allowed under the local zoning ordinance, the dominant purpose of which is to support or augment the principal religious worship use; and 3) property used as required by federal, state, or local law. These Acts contain an enactment clause stating that the “dominant purpose” language is intended to follow the Virginia Supreme Court’s interpretation in *Virginia Baptist Homes, Inc. v. Botetourt County*, 276 VA 656 (2008).

Under current law, buildings with land actually occupied and personal property owned by churches or religious bodies are exempt from local taxes when exclusively occupied or used either for religious worship or for the residence of the minister of the church or religious body. Additional adjacent land reasonably necessary for the convenient use of any such building is also exempt from state and local tax.

Effective: July 1, 2014
Amended: §§ 58.1-3606

Exemption for Aviation Museums from Real Property and Tangible Personal Property Tax

House Bill 187 (Chapter 60) and Senate Bill 508 (Chapter 185) authorize localities to exempt from tax the real or personal property of any entity, if the legal title to such property is subject to the sole use or occupancy by a nonprofit organization, and the organization: 1) has not agreed to surrender its interest in the property and 2) uses such property solely to a) exhibit or display Warbirds to the general public; b) use Warbirds for educational purposes; or c) demonstrate the performance of Warbirds at air shows and flight demonstrations of Warbirds. For purposes of this Act, the term “Warbirds” is defined as airplanes that were manufactured prior to 1955 and intended for military use.

Under current law, if real or personal property is subject to the sole use or occupancy by certain specified nonprofit organizations, but is owned by a separate entity, and the organization has not agreed to surrender its interest in the property, such property is exempt from state and local property tax.

Effective: July 1, 2014
Adds: § 58.1-3652

Exemption or Deferrals for the Elderly and Disabled from Real Property Tax

House Bill 1000 (Chapter 767) specifies that the local real property tax relief available for real property owned solely by taxpayers aged 65 or older or permanently disabled, or held jointly with other taxpayers, extends to real property that is i) held by the eligible person alone, with his spouse as tenant(s) for life or joint lives, or held in conjunction with one or more other people as tenants for life or joint lives; ii) held in a revocable inter vivos trust over which the eligible person, the eligible person and his spouse, or the eligible person with one or more other joint owners holds the power of revocation, or iii) held in an irrevocable trust under which an eligible person alone, with his spouse, or with other joint owners, possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support.

This Act also provides that in computing the annual income to determine eligibility for real property tax relief, the income of owners' relatives that live in the dwelling and provide bona fide caregiving services is excluded. In addition, this Act clarifies that nonrelatives living in the dwelling, who provide bona fide caregiving services to the owner are not included in the income calculation, regardless of whether or not the nonrelative is compensated.

Under current law, localities are authorized to provide real property tax relief in the form of exemptions, deferrals, or a combination for real estate owned and occupied as the sole dwelling of anyone at least 65 years of age, or permanently and totally disabled. Localities may also provide real property tax relief programs for dwellings jointly held by two or more individuals, not all of whom are at least age 65 or permanently and totally disabled, if the dwelling is occupied as the sole dwelling by all such joint owners. In addition, localities may establish income or financial worth limitations for purposes of granting property tax relief to eligible homeowners.

Effective: July 1, 2014

Adds: §§ 58.1-3210, 58.1-3211.1, 58.1-3212

Obsolete Language Regarding Judicial Sale of Real Estate Removed

House Bill 663 (Chapter 34) removes obsolete language that refers to the judicial sale of real estate deemed abandoned under the Tax Code. Legislation enacted in the 2009 General Assembly Session removed the provisions of the Tax Code setting forth the requirements for real estate to be deemed abandoned.

Effective: July 1, 2014

Amended: § 58.1-3969

SEVERANCE TAXES

Local Gas Road Improvement Tax Sunset Provision

House Bill 1028 (Chapter 44) and Senate Bill 552 (Chapter 187) extend the sunset date for the Local Gas Road Improvement and Virginia Coalfield Economic Development Authority Tax from December 31, 2014 to December 31, 2015.

The localities that comprise the Virginia Coalfield Economic Development Authority may impose a local gas road improvement tax that is capped at a rate of one percent of the gross receipts from the sale of gases severed within the locality. Under current law, the revenues generated from this tax are allocated as follows: 75 percent are paid into a special fund in each locality called the Coal and Gas Road Improvement Fund, where at least 50 percent of the revenue is spent on road improvements and 25 percent of the revenue may be spent on new water and sewer systems or the construction, repair, or enhancement of natural gas systems and lines within the locality; and the remaining 25 percent of the revenue is paid to the Virginia Coalfield Economic Development Fund. The Virginia Coalfield Economic Development Authority is comprised of the City of Norton, and the Counties of Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, and Wise. Under current law, the local gas road improvement tax is set to expire on December 31, 2014.

Effective: July 1, 2014
Amended: § 58.1-3713.3

Local Gas Severance Tax Agreements

House Bill 1202 (Chapter 48) and Senate Bill 338 (Chapter 179) authorize Commissioners of the Revenue to enter into agreements with taxpayers pertaining to the fair market value of mineral lands for purposes of the real property tax, including where the locality has elected to impose a severance tax on all coal and gases extracted from the land. Additionally, the Acts authorize Commissioners of the Revenue to enter into agreements with taxpayers pertaining to the fair market value of gases subject for purposes of the local gas severance tax. All agreements entered into on or after January 1, 2013, but prior to July 1, 2014, are deemed to be bona fide and are valid and enforceable.

Effective: July 1, 2014
Amended: §§ 58.1-3286 and 58.1-3712

TANGIBLE PERSONAL PROPERTY TAX

Separate Classification for Virginia Defense Force Member Vehicles

House Bill 44 (Chapter 50) creates a separate classification for purposes of the Tangible Personal Property Tax for a motor vehicle that is owned or leased and regularly used by a person who serves as a uniformed member of the Virginia Defense Force to fulfill his official duties. Localities are permitted to tax these vehicles at a rate not to exceed the rate applicable to the general class of tangible personal property. In order to qualify for this classification, the Virginia Defense Force member must identify the qualifying vehicle and furnish the commissioner of revenue or other assessing officer with a certification from the Adjutant General of the Department of Military Affairs by January 31 of each calendar year.

Effective: July 1, 2014
Amended: § 58.1-3506

Separate Classification for New Business Property

House Bill 617 (Chapter 409) creates a separate classification for the tangible personal property of a business for its first two taxable years. Under the terms of this Act, the business must meet the requirements of a “qualifying business” for purposes of the local business incentive program, even if the locality at issue does not currently provide such a program. A “qualifying business” is one that locates for the first time in the locality adopting a business license incentive program ordinance, excluding businesses that first locate in the locality as a result of a merger, acquisition, similar business combination, name change, or a change in business form. Localities are authorized to impose the tax on this tangible personal property at a lower rate than that applicable to the general class of tangible personal property.

Under current law, much of the tangible personal property of a business falls under the general class of tangible personal property. Localities must tax this property at the same rate as imposed on all other tangible personal property in the general class.

Effective: July 1, 2014
Amended: § 58.1-3506

Separate Classification for Electronic Communication and Processing Devices

House Bill 589 (Chapter 279) adds electronic communication and processing devices, such as cell phones, tablets, and personal computers, as well as peripheral equipment, such as printers to the list of household goods that a locality may elect to exempt from the tangible personal property tax. This Act allows each class of household goods to maintain this classification, provided the goods are owned and used by an individual, family, or household, primarily incident to maintaining an abode.

Current law provides for the separate classification of a number of specified household goods and personal effects, such as bicycles, household furniture, musical instruments, and all other tangible personal property used by an individual or a family or household incident to maintaining an abode. Localities are authorized to enact ordinances exempting the separately classified property from the tangible personal property tax. The separate classifications apply to such property only if it is owned and used by an individual or by a family or household incident to maintaining an abode.

Effective: July 1, 2014
Amended: § 58.1-3504

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