

2017 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 2017 Session of the General Assembly, including the reconvened session on April 5, 2017. 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:

Website: www.tax.virginia.gov

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

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

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STATE TAX

LEGISLATION

GENERAL PROVISIONS

Virginia Tax Amnesty Program

House Bill 2246 (Chapter 53), Senate Bill 1438 (Chapter 433), and Item 3-5.17 of the 2017 Appropriation Act (House Bill 1500, Chapter 836) authorize the Tax Commissioner to oversee a Virginia Tax Amnesty Program to be administered by the Department for a period ranging between 60 and 75 days during Fiscal Year 2018. Under this program, all penalties and 50 percent of the interest will generally be waived upon payment of the balance of amnesty-eligible taxes and interest owed. At the conclusion of the amnesty period, any remaining amnesty-qualified liabilities will be assessed an additional 20 percent penalty on the amount of unpaid tax.

With certain exceptions, any taxpayer who currently has an outstanding assessment, or who has not filed a return for any tax administered by the Department, may apply for tax amnesty. The following will not be eligible for the tax amnesty program:

- Any taxpayer currently under investigation or prosecution for filing a fraudulent return or failing to file a return with the intent to evade tax;
- Any liability with an assessment date or due date for an unfiled return less than 90 days prior to the first day of the amnesty program;
- Any individual, fiduciary or corporate income tax liability attributable to Taxable Year 2016 or after;
- Any tax liability that is attributable to an issue that is subject to a decision of a Virginia court rendered on or after January 1, 2016.

The Tax Commissioner will establish the guidelines regarding participation, as well as any other rules that are deemed necessary. These guidelines and rules are exempt from the Administrative Process Act.

Effective: July 1, 2017
Added: § 58.1-1840.2

Waiver of Tax Penalties for Small Businesses

Senate Bill 793 (Chapter 718) requires that tax penalties be waived for a small business during its first two years of operation, provided that such small business enters into an

installment agreement with the Tax Commissioner. For the purposes of qualifying for this penalty waiver, the term “small business” is defined as an independently owned and operated business that has been organized pursuant to Virginia law or maintains a principal place of business in Virginia and has ten or fewer employees.

This waiver applies only to penalties related to taxes administered by the Department. However, the Department is not required to waive penalties imposed for the failure of a business to remit sales or withholding taxes or the penalty imposed on corporate or partnership officers and business owners and operators who fail to truthfully account for any sales and use or withholding taxes.

Effective: July 1, 2017
Added: § 58.1-1817.1

Notification of Payroll Data Breach

House Bill 2113 (Chapter 419), Senate Bill 1033 (Chapter 427), and Item 275 (X) of the 2017 Appropriation Act (House Bill 1500, Chapter 836) require any employer or payroll service provider that owns or licenses computerized data relating to income tax withheld to notify the Office of the Attorney General without unreasonable delay after the discovery or notification of unauthorized access and acquisition of certain data. Such requirement applies when such data is unencrypted and unredacted and contains a taxpayer identification number in combination with the income tax withheld for that taxpayer. The employer or payroll provider must notify the Office of the Attorney General if such unauthorized access compromises the confidentiality of such data and creates a reasonable belief that an unencrypted and unredacted version of such information was accessed and acquired by an unauthorized person, and causes, or the employer or payroll provider reasonably believes has caused or will cause, identity theft or other fraud. With respect to employers, this requirement applies only to information regarding the employer’s employees, and does not apply to information regarding the employer’s customers or other non-employees.

Such employer or payroll service provider is required to provide the Office of the Attorney General with the name and federal employer identification number of the employer that may be affected by the compromise in confidentiality. Upon receipt of such notice, the Office of the Attorney General is required to notify the Department of Taxation of the compromise in confidentiality.

Effective: July 1, 2017
Amended: § 18.2-186.6

Fee for Rulings, Offers in Compromise, and Corporate Status Changes

Item 275 (V) of the 2017 Appropriation Act (House Bill 1500, Chapter 836) requires the Department to charge the following fees:

- \$275 for each request for a letter ruling or for an advisory opinion;
- \$50 for each request for an offer in compromise with respect to doubtful collectability; and
- \$100 for each request for permission to change a corporation's filing method.

The Tax Commissioner has the authority to waive such fees. Waivers will be granted if the fee creates an unreasonable burden on the person making the request. All requests for waiver must be submitted to the Tax Commissioner in writing.

Effective: July 1, 2017

Electronic Requirement for Certain Individual Income Tax Payments

Item 275 (K)(1)(f) of the 2017 Appropriation Act (House Bill 1500, Chapter 836) requires certain taxpayers subject to the individual income tax who make estimated tax payments to file and remit their individual income tax payments electronically if in any taxable year beginning on or after January 1, 2017:

- Any installment payment of estimated tax exceeds \$15,000;
- Any payment made with regard to an extension of time to file exceeds \$15,000; or
- The taxpayer's total tax liability exceeds \$60,000.

The Department of Taxation is required to provide reasonable advanced notice to taxpayers affected by this requirement.

Effective: April 28, 2017

Electronic Requirement for Estates and Trusts

Item 275 (K)(1)(e) of the 2017 Appropriation Act (House Bill 1500, Chapter 836) requires all estates and trusts to file estimated tax payments, annual income tax returns, and final payments electronically. Taxpayers may request a waiver from the electronic filing and payment requirement. Waivers will be granted if the requirement creates an unreasonable

burden on the person required to use an electronic medium. All requests for waiver must be submitted to the Tax Commissioner in writing.

Effective: January 1, 2018

Electronic Requirement for Litter Tax

Item 275 (U)(2) of the 2017 Appropriation Act (House Bill 1500, Chapter 836) requires taxpayers that are required to file litter tax returns to file their returns and remit payments electronically beginning with the first return required to be filed after January 1, 2018. Dealers may request a waiver from the electronic filing and payment requirement. Waivers will be granted if the requirement creates an unreasonable burden on the person required to use an electronic medium. All requests for waiver should be submitted to the Tax Commissioner in writing.

Effective: First return required to be filed after January 1, 2018

Electronic Requirement for Use Tax

Item 275 (L)(2) of the 2017 Appropriation Act (House Bill 1500, Chapter 836) requires taxpayers that are required to file out-of-state dealer's use tax returns and business consumer's use tax returns to file their returns and remit payments electronically beginning with the July 2017 return, due August 2017, for monthly filers and, for less frequent filers, with the first return they are required to file after August 1, 2017. Taxpayers may request a waiver from the electronic filing and payment requirement. Waivers will be granted if the requirement creates an unreasonable burden on the person required to use an electronic medium. All requests for waiver should be submitted to the Tax Commissioner in writing.

Effective: Beginning with the July 2017 return, due August 2017, for monthly filers and, for less frequent filers, with the first return they are required to file after August 1, 2017

Discontinuation of the Virginia Medical Savings Account Plan Report

Item 275 (W) of the 2017 Appropriation Act (House Bill 1500, Chapter 836) dictates that the Department of Taxation is no longer required to update the Virginia Medical Savings Account Plan report after the completion of the report due on December 31, 2016.

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Effective: April 28, 2017

INCOME TAX

Advancement of Virginia’s Fixed Date Conformity to the Internal Revenue Code

House Bill 1521 (Chapter 1) and Senate Bill 977 (Chapter 2) advance Virginia’s date of conformity to the Internal Revenue Code (“IRC”) from December 31, 2015, to December 31, 2016.

These Acts allow Virginia to conform to the provisions of the United States Appreciation for Olympians and Paralympians Act of 2016 (H.R. 5946), enacted by Congress on October 7, 2016. This federal legislation excludes from gross income the value of any medal awarded or any prize money received from the United States Olympic Committee for competition in the Olympic Games or Paralympic Games. This income tax exclusion does not apply to an individual if their adjusted gross income exceeds \$1 million, or \$500,000 if such individual is married and filing a separate income tax return.

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 2008 or 2009. In addition, Virginia will continue to disallow the federal treatment of tax deductions related to applicable high yield discount obligations. Virginia will also continue to deconform from any tax exclusions related to cancellation of debt income realized in connection with a reacquisition of business debt at a discount after December 31, 2008, and before January 1, 2011.

Effective: February 3, 2017
Amended: § 58.1-301

Subtraction for Income Attributable to Investments in Virginia Venture Capital Accounts

House Bill 2074 (Chapter 762) allows an individual and corporate income tax subtraction for certain income attributable to an investment in a Virginia venture capital account made on or after January 1, 2018, but before December 31, 2023. For an investment fund to qualify as a Virginia venture capital account, it must be certified by the Department as a Virginia venture capital account prior to a qualifying investment being made. To receive certification, the investment fund must:

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- Invest at least 50 percent of the capital committed to its fund in qualified portfolio companies; and
- Employ at least one investor who has at least four years of professional experience in venture capital investment or substantially equivalent experience.

A “qualified portfolio company” is defined under this Act as a company that has its principal place of business in Virginia, has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and provides equity in the company to the Virginia venture capital account in exchange for a capital investment. An individual or sole proprietorship is not considered a “qualified portfolio company” under this Act. This Act requires the Department to promulgate regulations prior to December 31, 2017 establishing procedures regarding the:

- Registration of an investment fund as a Virginia venture capital account;
- Provision of documentation regarding an investor's training, education, or experience as deemed necessary by the Department to meet the requirements of this act; and
- Certification of an investment fund as a Virginia venture capital account by the Department.

This Act requires the Department to report annually by November 1 to the Chairmen of the House Committee on Appropriation and the Senate Committee on Finance regarding the number of registrations and certifications of Virginia venture capital accounts.

Effective: Taxable years beginning on and after January 1, 2018
Amended: §§ 58.1-322, 58.1-402

Land Preservation Tax Credit: Annual Limitation

Senate Bill 963 (Chapter 424) extends the \$20,000 limitation on the amount of Land Preservation Tax Credits that a taxpayer may claim per taxable year to apply to Taxable Year 2017. Similarly, Section 3-5.19 of the 2017 Appropriation Act (House Bill 1500, Chapter 836) extends the \$20,000 limitation to taxable years beginning on and after January 1, 2017.

Under current law, the Land Preservation Tax Credit is equal to forty percent of the fair market value of land or an interest in land located in Virginia which is conveyed for the purpose of agricultural and forestal use, open space, natural resource, and/or biodiversity conservation, or land, agricultural, watershed and/or historic preservation, as an unconditional donation by the taxpayer to a public or private conservation agency. There is an annual limitation on the amount that each taxpayer may claim per taxable year. For Taxable Years 2015 and 2016, this

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amount was reduced to \$20,000, but was scheduled to increase to \$50,000 beginning in Taxable Year 2017. These Acts extend the current \$20,000 limitation to Taxable Year 2017.

Any unused portion of a credit issued to a taxpayer may generally be carried forward for a maximum of 10 years. For taxpayers affected by the credit reduction for Taxable Years 2009, 2010, 2011, and 2015 and thereafter, any unused portion of a credit issued to a taxpayer may be carried forward for a maximum of 13 years. For taxpayers to whom a credit has been transferred, any unused portion may be carried forward for a maximum of 11 years after the credit was originally issued. For taxpayers affected by the credit reduction for Taxable Years 2009, 2010, 2011, and 2015 and thereafter, any portion of a transferred credit may be carried forward for a maximum of 14 years after the credit was originally issued.

Effective: Taxable years beginning on and after January 1, 2017
Amended: § 58.1-512

Land Preservation Tax Credit: Exemption from Transfer Fee

Senate Bill 1286 (Chapter 725) creates an exemption from the two percent Land Preservation Tax Credit transfer fee for the distribution of credits to a nonresident owner of a pass-through entity when such credits are applied by the pass-through entity to the pass-through entity withholding tax. Credits distributed to resident owners and nonresident owners who are not subject to the pass-through entity withholding requirement will continue to be subject to the transfer fee.

Effective: July 1, 2017
Amended: § 58.1-513

Historic Rehabilitation Tax Credits

House Bill 2460 (Chapter 717), Senate Bill 1034 (Chapter 721), and Section 3-5.18 of the 2017 Appropriation Act (House Bill 1500, Chapter 836) prohibit a taxpayer from claiming more than \$5 million in Historic Rehabilitation Tax Credits for a taxable year. Taxpayers with credit amounts in excess of \$5 million may carry forward the excess and claim the credit in future taxable years within the credit's current ten-year carryover period or until the full credit is used, whichever occurs first.

Effective: Taxable years beginning on and after January 1, 2017
Amended: § 58.1-339.2

Changes to the Neighborhood Assistance Act:

Tax Credit Program

Senate Bill 1168 (Chapter 724) reorganizes the provisions of the Neighborhood Assistance Act Tax Credit program to set out separate sections for the portions of the program administered by the Department of Social Services and the Department of Education.

This Act also provides that, for education proposals submitted to the Department of Education, expenditures for teacher salaries count toward the requirement that at least 50 percent of a neighborhood organization's revenues be used to provide services to low-income persons or to eligible students with disabilities.

This Act also incorporates changes regarding the set aside of tax credits for neighborhood organizations that did not receive an allocation of tax credits in the previous year.

Effective: July 1, 2017
Amended: § 58.1-439.20
Adds: §§ 58.1-439.20:1, 58.1-439.20:2

Set Aside for New Organizations

House Bill 1433 (Chapter 147) modifies the Neighborhood Assistance Act Tax Credit by eliminating the requirement that 10 percent of all available tax credits each year must be set aside for neighborhood organizations that did not receive an allocation of tax credits in the previous year. Instead, this Act imposes a set aside of tax credits for new organizations only in years during which there is an increase in funding for the Neighborhood Assistance Act Tax Credit program.

Currently, the available amount of tax credits for each fiscal year is subject to an annual cap of \$9 million for education proposals and \$8 million for all other proposals. Since these annual caps are not scheduled to increase, there is no set aside of tax credits under this Act until such time that the General Assembly enacts legislation raising the annual cap on Neighborhood Assistance Act Tax Credits.

Effective: February 23, 2017
Amended: § 58.1-439.20

Allocation of Credits Based on Past Performance

Senate Bill 1165 (Chapter 723) requires that the Department of Education and Department of Social Services consider, in allocating Neighborhood Assistance Act Tax Credits, the past performance of neighborhood organizations that have received allocations of credits, including review of performance metrics, success in reaching targeted goals, or other measures of accountability that may be established by regulations or guidelines.

Neighborhood Assistance Act Tax Credits are issued by the Department of Education, for education proposals, and the Department of Social Services, for all other proposals. Current law requires the Department of Education to issue guidelines and the Department of Social Services to issue regulations providing for the equitable allocation of tax credits among approved proposals submitted by neighborhood organizations. This Act would specify that such regulations and guidelines must establish accountability measures that consider the past performance of neighborhood organizations that have received allocations of credits.

Effective: July 1, 2017
Amended: § 58.1-439.20

Information Regarding Education Proposals

House Bill 1838 (Chapter 317) provides that any neighborhood organization submitting a proposal to the Superintendent of Public Instruction for an allocation of Neighborhood Assistance Act Tax Credits for the program year beginning July 1, 2017 must include with its proposal a list of all localities in the Commonwealth in which the neighborhood organization provided services during the program year beginning July 1, 2016. The Department of Education is required to aggregate the information received pursuant to this Act and submit it to the Chairmen of the House Committee on Appropriation, the House Committee on Finance, the Senate Committee on Finance, and the Joint Subcommittee to Evaluate Tax Preferences no later than December 1, 2017.

Effective: July 1, 2017

Enterprise Zone Real Property Investment Tax Credit: Qualifying Expenditures

Senate Bill 1328 (Chapter 451) allows otherwise qualifying expenditures to qualify for Enterprise Zone Real Property Investment Grants and Enterprise Zone Real Property Investment Tax Credits regardless of whether such expenditures are considered properly

chargeable to a capital account or deductible as business expenses under federal Treasury regulations.

For taxable years beginning on and after July 1, 1995, but before July 1, 2005, a qualified zone resident was allowed to claim Enterprise Zone Real Property Investment Tax Credits. For purposes of the credit, a "qualified zone resident" is defined as an owner or tenant of real property located in an enterprise zone who expands or rehabilitates such real property to facilitate the conduct of a trade or business within the enterprise zone. Qualified zone residents making qualified zone investments in excess of \$100 million that result in the creation of at least 200 permanent full-time positions ("large qualified zone residents") are permitted to continue claiming tax credits after July 1, 2015 if they initiated use of such credits and signed agreements regarding the use of such credits by July 1, 2005.

For large qualified zone residents, the credit is equal to an amount up to five percent of qualified zone investments, as determined in an agreement between DHCD and the taxpayer. "Qualified zone investments" is defined as the sum of qualified zone improvements and the cost of machinery, tools and equipment used in manufacturing tangible personal property within an enterprise zone. "Qualified zone improvements" are currently defined as the amount properly chargeable to a capital account for improvements to rehabilitate or expand depreciable real property placed in service during the taxable year within an enterprise zone, provided that the total amount of such improvements equals or exceeds (i) \$50,000 and (ii) the assessed value of the original facility immediately prior to the rehabilitation or expansion.

This Act amends the definition of "qualified zone improvements" for purposes of the Enterprise Zone Real Property Investment Tax Credit so that it includes improvements to rehabilitate or expand depreciable real property placed in service during the taxable year within an enterprise zone, regardless of whether such amounts are considered properly chargeable to a capital account or deductible as a business expense under federal Treasury Regulations

Effective: July 1, 2017
Amended: §§ 59.1-280.1, 59.1-548

Sunset Date for the Motion Picture Production Tax Credit Advanced

House Bill 1665 (Chapter 108) and Senate Bill 982 (Chapter 425) extend the expiration date of the Motion Picture Production Tax Credit from January 1, 2019 to January 1, 2022. The Tax Commissioner is not permitted to issue credits subsequent to the Commonwealth's fiscal year ending June 30, 2022.

Effective: July 1, 2017
Amended: § 58.1-439.12:03

Sunset Dates for the Worker Retraining and Telework Expenses Tax Credits

House Bill 1814 (Chapter 177) and Senate Bill 1576 (Chapter 454) extend the sunset dates for the Worker Retraining and Telework Expenses Tax Credits.

Under these Acts, the sunset date for the Worker Retraining Tax Credit is extended from taxable years beginning before January 1, 2018 to taxable years beginning before January 1, 2022. Additionally, these Acts change the agency responsible for certifying eligible worker retraining courses from the Department of Small Business and Supplier Diversity to the Virginia Economic Development Partnership Authority.

These Acts extend the sunset date for the Telework Expenses Tax Credit from taxable years beginning before January 1, 2017 to taxable years beginning before January 1, 2022. These Acts also extend the date before which an employer must enter into a telework agreement with a participating employee to January 1, 2022.

Effective: July 1, 2017
Amended: §§ 58.1-439.6, 58.1-439.12:07

Reorganization of Individual Income Tax Additions, Subtractions, and Deductions

Senate Bill 912 (Chapter 444) reorganizes the provisions of the Code of Virginia related to the calculation of Virginia taxable income of residents. Current law sets out Virginia additions, subtractions, deductions, and other modifications in one lengthy section. This Act creates four new, smaller sections for Virginia additions, subtractions, deductions, and other modifications, respectively.

This Act also deletes several obsolete provisions and makes some technical changes. This Act does not make any substantive changes to the calculation of Virginia taxable income.

Effective: July 1, 2017
Amended: §§ 55-556, 55-557, 55-558, 58.1-302, 58.1-315, 58.1-321, 58.1-322, 58.1-324, 58.1-339.8, 58.1-362, 58.1-363, 58.1-391, 58.1-490, 58.1-513, 58.1-1823
Added: §§ 58.1-322.01, 58.1-322.02, 58.1-322.03, 58.1-322.04

RETAIL SALES AND USE TAX

Online Access for Registered Dealers

House Bill 1810 (Chapter 49) requires the Department to provide registered Retail Sales and Use Tax dealers with online access to the names and registration numbers of other such dealers.

Under current law, the Department is authorized to disclose whether a person is registered to collect the Retail Sales and Use Tax and to make available the names and registration numbers of such dealers.

Effective: July 1, 2017
Added: § 58.1-623.01

Dealer Registration Based on Inventory

House Bill 2058 (Chapter 51), Senate Bill 962 (Chapter 808), and Item 3.5-15 of the 2017 Appropriation Act (House Bill 1500, Chapter 836) clarify that storage of inventory within the Commonwealth of Virginia is sufficient contact with Virginia to require an out-of-state seller to register as a dealer for the collection of sales and use tax on sales to customers within Virginia.

Under current law, the Retail Sales and Use Tax generally applies to sales of tangible personal property to customers within Virginia. However, because the U.S. Supreme Court held in *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992), that the Commerce Clause requires physical presence as a prerequisite for the requirement to register and collect, many out-of-state sellers avoid collecting sales tax on their sales to Virginia customers by choosing not to have a physical presence within Virginia's borders. Many remote sellers who sell to Virginia customers store inventory in Virginia fulfillment centers and warehouses owned by unrelated third parties. These sellers typically do not have any other physical presence within the Commonwealth and therefore are arguably not required to register as dealers for sales tax collection under current law because, under Virginia law, having inventory stored within Virginia is not listed as one of the factors requiring registration.

Under these Acts, the presence of inventory within Virginia in a fulfillment center or warehouse will give rise to an out-of-state dealer's obligation to collect sales tax on sales to Virginia customers.

Effective: June 1, 2017
Amended: § 58.1-612

Sunset Date for the Retail Sales and Use Tax Holiday

House Bill 1529 (Chapter 26) and Senate Bill 1018 (Chapter 446) extend the sunset date for the combined sales tax holidays for school supplies and clothing, Energy Star and WaterSense products, and hurricane preparedness products from July 1, 2017 to July 1, 2022.

Under current law, school supplies and clothing, Energy Star and WaterSense products, and hurricane preparedness products may be purchased exempt from the Retail Sales and Use Tax during an annual three-day holiday beginning the first Friday in August and ending at 11:59 p.m. on the following Sunday.

Effective: July 1, 2017
Amended: § 58.1-611.2

Sunset Date for the Retail Sales and Use Tax Exemption on Audio and Video Works

House Bill 1543 (Chapter 412) extends the sunset date for the Retail Sales and Use Tax exemption for audio and video works from July 1, 2019 to July 1, 2022.

Under current law, an exemption from the Retail Sales and Use Tax is available for the lease, rental, license, sale, other transfer, or use of any audio or video tape, film or other audiovisual work.

Effective: July 1, 2017
Amended: § 58.1-609.6

Sunset Date for the Retail Sales and Use Tax Exemption on Printing Materials

Senate Bill 804 (Chapter 441) extends the sunset date for the Retail Sales and Use Tax exemption allowed for the purchase of printing materials by advertising businesses when the printed material are distributed outside the Commonwealth from July 1, 2017 to July 1, 2022.

Under current law, advertising businesses that purchase printing from Virginia printers are not deemed the users or consumers of printed materials distributed outside the Commonwealth if the purchases qualify for the exemptions for either: 1) publications and

supplements issued at regular intervals more frequent than three months or 2) catalogs, letters, brochures, reports, and similar printed materials stored within the Commonwealth for twelve months or less and distributed outside the Commonwealth.

Effective: July 1, 2017
Amended: § 58.1-609.6

Retail Sales and Use Tax Exemption for Stamped Cigarettes

House Bill 1913 (Chapter 112) and Senate Bill 1390 (Chapter 453) require possession of a newly created Department-issued exemption certificate to purchase cigarettes bearing Virginia revenue stamps for resale exempt from Retail Sales and Use Tax, beginning January 1, 2018. Taxpayers that do not meet certain criteria are required to apply for the exemption certificate and undergo a background investigation during a waiting period of at least 30 days. The Department is authorized to charge an application fee, not to exceed \$50, for the cigarette exemption certificate. Taxpayers who meet certain criteria will go through an expedited process with no application fee, waiting period, or background investigation. Taxpayers qualifying for the expedited process will include: i) taxpayers possessing an active license, in good standing, issued by the Department of Alcoholic Beverage Control to sell alcohol; ii) taxpayers possessing an active tobacco products tax distributor's license, in good standing, issued by the Department; and iii) such other categories of taxpayers as identified by the Department.

The Department is required to develop guidelines regarding the exemption certificate with provisions including, but not limited to: i) defining categories of taxpayers who qualify for the expedited process, ii) prescribing the form of the applications for the cigarette exemption certificate, iii) establishing procedures for suspending and revoking the certificate, and iv) establishing procedures for renewing the certificate.

The Department is also required to issue or deny the cigarette exemption certificate prior to January 1, 2018, to any taxpayer who qualifies under the expedited process or applies for the certificate before December 1, 2017.

These Acts provide that any person who purchases 5,000 or fewer cigarettes using a forged or invalid cigarette exemption certificate will be guilty of a Class 1 misdemeanor for a first offense and a Class 6 felony for a second or subsequent offense. Any person purchasing more than 5,000 cigarettes will be guilty of a Class 6 felony for a first offense and a Class 5 felony for a second or subsequent offense. These Acts also provide civil penalties for using a forged or invalid cigarette tax exemption certificate to purchase cigarettes of i) \$2.50 per pack, but not less than \$5,000, for a first offense; ii) \$5 per pack, but not less than \$10,000, for a second offense committed within a 36 month period; and iii) \$10 per pack, but not less than \$50,000, for

a third or subsequent offense committed within a 36 month period. The civil penalties will be assessed and collected by the Department of Taxation as other taxes are collected.

These Acts also require any person who ships, sells, or distributes more than 50 cartons of cigarettes, or cigarettes with a value greater than \$10,000 in any single transaction or multiple related transactions, provide information about the shipment, receipt, sale, and distribution of such cigarettes on a newly created form prescribed by the Office of the Attorney General.

Under current law, cigarettes may be purchased exempt from the sales tax by presenting a “self-executed” resale exemption certificate. The majority of exemption certificates are “self-executed” or “self-issued.” Purchasers may download the exemption certificate from the Department’s website, complete it, and present it to the merchant at the time of purchase.

Effective: January 1, 2018
Amended: §§ 58.1-623, 58.1-1000, 58.1-1017.3
Added: §§ 58.1-623.2, 58.1-1017.4

Retail Sales and Use Tax Exemption on Legal Tender Coins

House Bill 1668 (Chapter 48) and Senate Bill 934 (Chapter 445) exempt from the Retail Sales and Use Tax sales of legal tender coins where the sales price for the transaction exceeds \$1,000. The definition of “legal tender coins” includes coins of any metal content issued by a government as a medium of exchange or payment of debts. These Acts also extend the sunset date of the current exemption for gold, silver, or platinum bullion from January 1, 2019 to June 30, 2022.

Under current law, the sale of legal tender coins constitutes a sale of tangible personal property that is subject to the tax. The exemption will expire June 30, 2022.

Effective: January 1, 2018
Amended: § 58.1-609.1

Retail Sales and Use Tax Exemption on Aviation Parts, Engines, and Supplies

House Bill 1738 (Chapter 714) provides an exemption from the Retail Sales and Use Tax for parts, engines, and supplies used for maintaining, repairing, or reconditioning aircraft or any aircraft’s avionics system, engine, or component parts. This Act provides an exemption for both manned and unmanned systems. This exemption does not cover tools or equipment. This

Act also clarifies that the exemption does not restrict the sales tax exemption available to scheduled common carriers under current law.

Under current law, there is an exemption from the Retail Sales and Use Tax for tangible personal property sold or leased to an airline operating in intrastate, interstate or foreign commerce as a common carrier providing scheduled air service on a continuing basis to one or more Virginia airports at least one day per week, for use or consumption by such airline directly in the rendition of its common carrier service. This Act has a sunset date of July 1, 2022.

Effective: July 1, 2018
Amended: §§ 58.1-609.3, 58.1-609.10

Retail Sales and Use Tax Exemption on Textbooks and Other Educational Materials

House Bill 2377 (Chapter 54) extends the sunset date for the Retail Sales and Use Tax exemption for textbooks and other educational materials withdrawn from inventory at book-publishing distribution facilities from July 1, 2017 to July 1, 2022.

Under current law, the exemption applies when such materials are withdrawn for free distribution to professors and other individuals with an educational focus. The exemption for textbooks and other educational materials is an exception to the general requirement that a business pay use tax on inventory withdrawn and donated free of charge. The exemption allows book-publishing distribution facilities to withdraw textbooks and other educational materials from inventory for free distribution to professors and other individuals with an educational focus free of the Retail Sales and Use Tax.

Effective: July 1, 2017
Amended: §§ 58.1-609.6

Retail Sales and Use Tax on Consuming Contractors

House Bill 1890 (Chapter 436) and Senate Bill 1308 (Chapter 449) repeal the Retail Sales and Use Tax provision requiring dealers that both make retail sales and also install fences, venetian blinds, window shades, awnings, storm windows and doors, locks and locking devices, floor coverings, cabinets, countertops, kitchen equipment, window air conditioning units or other like or comparable items, to collect tax from their customers on such sales. In the same manner as other real property contractors, these Acts require retailers to pay the tax on their purchase or use of these items.

2017 LEGISLATIVE SUMMARY – STATE TAXES

Under current law, any person selling and installing these items is deemed a retailer of them and not a using or consuming contractor with respect to them. Accordingly, dealers must purchase the goods for resale tax exempt and then collect sales tax from the ultimate consumer. Real property contractors are deemed to be consumers of these items and must pay sales or use tax on them.

Effective: July 1, 2017
Amended: § 58.1-610

Retail Sales and Use Tax on Automotive Repair Supplies

House Bill 1518 (Chapter 104) requires that the Retail Sales and Use Tax be collected by automobile repair businesses on separately stated charges to their customers for supplies used during the repairs, whether or not title or possession of the supplies passes to the customer. This Act also allows automobile repairers to purchase supplies exempt from the tax as sales for resale.

Under current law, the tax is paid on supplies used and consumed by automobile repairers at the time of purchase by the shop. Separately stated charges imposed by automobile repairers for supplies used during the repair of automobiles are not subject to the tax.

Effective: July 1, 2017
Amended: § 58.1-602

Accelerated Sales Tax

Section 3-5.06 (G) of the 2017 Appropriation Act (House Bill 1500, Chapter 836) decreases the annual threshold for dealers and direct payment permit holders (“Dealers”) to make accelerated sales tax payments to the following:

- \$2.5 million of taxable sales and purchases effective for the June 2017 payment, and;
- \$4 million of taxable sales and purchases effective for the June 2018 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. Waivers will be granted if the requirement creates an unreasonable burden

2017 LEGISLATIVE SUMMARY – STATE TAXES

on the person required to make accelerated sales tax payments. All requests for waiver should be submitted to the Tax Commissioner in writing.

Effective: Accelerated Sales Tax Payments due beginning June 2017

INSURANCE PREMIUMS LICENSE TAX

Home Care Service Contract Providers

House Bill 1542 (Chapter 727) transfers the regulation of home service contract providers from the State Corporation Commission to the Virginia Department of Agriculture and Consumer Services, and changes the taxation of such companies. Under this Act, home service contract providers will no longer be subject to the Insurance Premiums License Tax and will instead be subject to the corporate income tax. In addition, this Act imposes a minimum tax on a home service contract provider if its corporate income tax liability is less than its minimum tax liability. The minimum tax is imposed at a rate equal to 2.25 percent of a home service contract provider's collected provider fees.

For purposes of the minimum tax, a "home service contract provider" is defined as a person that is contractually obligated to the purchaser under the terms of a home service contract. A "home service contract" is defined as a contract or agreement for a separately stated consideration for any duration to perform the service, repair, replacement, or maintenance of property or to indemnify for the costs of service, repair, replacement, or maintenance, for the operational failure of any property due to a defect in materials, workmanship, inherent defect, or normal wear and tear, with or without additional provisions for incidental payment of indemnity under limited circumstances. Collected provider fees include consideration collected on home service contracts issued to a resident of the Commonwealth.

Until the Department promulgates regulations regarding the minimum tax imposed on home service contract providers, the regulation that applies to noncorporate entities subject to the minimum tax imposed on telecommunications companies will apply to noncorporate entities subject to the minimum tax imposed on home service contract providers.

Effective: Taxable years beginning on or after January 1, 2018
Added: § 58.1-400.4, 59.1-434.1 through 59.1-434.8
Repealed: §§ 38.2-2617 through 38.2-2627

RECORDATION TAX

Recordation of Deeds for the City of Danville

House Bill 1699 (Chapter 131) authorizes the City of Danville, after a public hearing, to enact an ordinance authorizing a pilot project providing that the clerk will not record any deed with an assessed value of \$50,000 or less unless the city director of finance certifies that there are no liens against the property for unpaid taxes, fines, or other charges that rank on a parity with liens for unpaid taxes owed to the City of Danville. The pilot project will not apply to deeds of trust, deeds of easement, deeds in which a public service company, railroad, or cable system operator is either a grantor or grantee, deeds prepared under the supervision of the Office of the Attorney General, deeds conveying property to the Danville Redevelopment and Housing Authority, and deeds conveying real property to satisfy liens or delinquent taxes.

The City of Danville is required to make a written report to the Virginia Housing Commission on or before May 31, 2020, if the pilot project is established. The provisions of this Act will expire on July 1, 2021.

Effective: July 1, 2017

Deed Recordation Fee Clarification

Item 365(C) of the 2017 Appropriation Act (House Bill 1500, Chapter 836) clarifies that the \$1 recordation fee for open-space preservation provided for under *Va. Code* § 58.1-817 is imposed on each instrument or document recorded in the proper book for filing of land records in those jurisdictions in which open-space easements are held by the Virginia Outdoors Foundation.

Effective: April 28, 2017

Interstate 73 Corridor Development Fund

Senate Bill 806 (Chapter 544) establishes the Interstate 73 Corridor Development Fund and Program and reallocates to the I-73 Fund the \$40 million from state recordation taxes that is currently allocated annually to the U.S. Route 58 Corridor Development Fund and Program. All

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provisions of this Act are contingent upon construction of and payments for Route 58 being completed.

Effective: July 1, 2017
Added: §§ 33.2-3400, 33.2-3401
Repealed: §§ 33.2-2300, 33.2-2301

LOCAL TAX

LEGISLATION

GENERAL PROVISIONS

Publication of List of Delinquent Taxes by Treasurer

House Bill 1463 (Chapter 409) allows local treasurers to publish, whether or not based on information as it exists at the end of the fiscal year:

- A list of tax delinquent real estate; and
- A list of tax delinquent tangible personal property, machinery and tools and merchants' capital, and other subjects of local taxation.

Under current law, a local treasurer cannot publish these lists without the consent of the local governing body.

Effective: July 1, 2017
Amended: § 58.1-3924

Electronic Transfer of Certain Documents by Circuit Court Clerks

House Bill 1515 (Chapter 42) permits circuit court clerks to transfer electronically, or provide electronic access to, documents related to certain real property information to certain public officials.

Effective: July 1, 2017
Amended: §§ 58.1-3303, 58.1-3360.1, 58.1-3361

Local Green Development Zones

House Bill 1565 (Chapter 27) authorizes local governing bodies to create, by ordinance, one or more green development zones, inside which localities will be permitted to grant tax incentives and provide certain regulatory flexibility for a maximum period of ten years to green development businesses and businesses operating in energy-efficient buildings located in a green development zone. For purposes of this legislation, “green development business” means a business engaged primarily in the design, development, or production of materials, components, or equipment used to reduce negative impact on the environment.

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This Act also authorizes the adoption of a local enterprise zone development taxation program for the green development zone, regardless of whether the green development zone has been designated by the Governor as an enterprise zone, and makes the laws that apply to enterprise zones also applicable to green development zones.

Effective: July 1, 2017
Amended: § 58.1-3245.12
Adds: § 58.1-3854

Local Vehicle Taxes and License Fee Reciprocal Agreements

Senate Bill 1211 (Chapter 119) authorizes the county treasurer to enter into a reciprocal agreement with the treasurer of a town wholly or partially within such county allowing the town treasurer to collect delinquent local vehicle license fees or taxes owed to the county or the county treasurer to collect such fees or taxes owed to the town. The agreement must be approved by the respective local governing bodies.

Under current law, any county treasurer is authorized to enter into a reciprocal agreement with the treasurer of a town wholly or partially within such county to allow the town treasurer to collect current, non-delinquent local vehicle license fees or taxes owed to the county or for the county treasurer to collect current, non-delinquent local vehicle license fees or taxes owed to the town.

Effective: July 1, 2017
Amends: § 46.2-752

Local Cigarette Tax Refunds

House Bill 1950 (Chapter 113) clarifies that any locality imposing a local cigarette tax must refund the purchase price of any stamp purchased to evidence payment of the tax, without penalties or additional fees, after verifying that the stamps have been returned to the locality.

Effective: July 1, 2017
Amended: § 58.1-3832

REAL ESTATE TAX

Nonjudicial Sale of Tax Delinquent Property

House Bill 1909 (Chapter 437) permits the nonjudicial sale of unimproved real property valued at less than \$5,000 if taxes are delinquent for at least three years. This Act also permits the nonjudicial sale of real property valued at no less than \$5,000 but no greater than \$20,000 if taxes are delinquent for at least three years and the property:

- Is unimproved and measures less than 4,000 square feet;
- Is unimproved and has been determined to be unsuitable for building (the Act expands the bases on which unsuitability may rest);
- Has a structure on it that has been condemned by the local building official;
- Has been declared a nuisance by the locality;
- Contains a derelict building; or
- Has been declared to be blighted by the locality.

This Act requires that, in addition to the existing notice requirements under current law, the treasurer must publish notice of the sale in a newspaper of general circulation within the locality between 7 and 21 days prior to the sale or, in lieu of publication where the annual taxes assessed are less than \$500, public notice may be placed on the treasurer or local government's website for at least 21 days leading up to the sale.

This Act also removes the 12-month time limitation on agreements for the owner to pay delinquent taxes over time. This Act substitutes the requirement that an owner or other interested party may redeem the property by paying, in addition to all taxes, penalties, interest, and costs thereon, reasonable attorney's fees instead of costs of publication.

This Act also provides that the sale shall be free and clear of all prior recorded liens unless the treasurer has given the lien holder written notice of the sale at least 30 days prior to the sale. It is also required that the property pass by special warranty deed as a result of the sale to the highest bidder. This Act also mandates that any excess proceeds will be property of the prior owner, subject to claims of creditors, and that the evaluation of claims for such excess proceeds would be handled by the circuit court.

Current law permits the nonjudicial sale of unimproved real property valued at less than \$10,000 if taxes are delinquent for at least three years and the property:

- Measures less than 4,000 square feet; or,

- Has been determined to be unsuitable for building.

Current law requires the treasurer conducting the sale to send notice by certified or registered mail to the owners of record, to post a notice of sale at the property and the courthouse at least 30 days before the sale, and to advertise the sale in a newspaper of general circulation between 7 and 21 days before the sale.

Effective: July 1, 2017
Amended: § 58.1-3975

Real Property Tax Deferral in Stafford County

House Bill 2219 (Chapter 438) and Senate Bill 1248 (Chapter 448) authorize Stafford County to adopt, by ordinance, a program allowing deferral of real property tax for a taxpayer's sole occupied dwelling where that dwelling has seen at least a 25 percent increase in real property tax levy over the levy for 2015, and the increase is due to improvements completed by Stafford County in 2015 to real property that, together with any adjacent property owned by Stafford County, is adjacent to the taxpayer's real estate.

Under current law, localities are authorized to adopt, by ordinance, a deferral program allowing deferral of all or any portion of the real property tax that exceeds at least 105 percent of the real estate tax on such property owned by the taxpayer in the previous year. Localities may designate whether the deferral is allowed only for a taxpayer's sole occupied dwelling or all property.

Effective: July 1, 2017

Real Property Tax: Special Assessment for Land Preservation

House Bill 1476 (Chapter 25) prohibits any locality from requiring any taxpayer who is the lessor of real property to produce the lease for the purpose of determining whether the property is eligible for land use assessment and taxation.

Under current law, a property owner may make an application for taxation based on a special use value assessment rather than assessment of fair market value based on best possible use of the property. Under current law, localities are not prohibited from requiring lessors of real property to produce leases for the purpose of determining special assessment eligibility of land.

Effective: July 1, 2017
Amended: § 58.1-3234

Constitutional Amendment: Real Property Tax Exemption for Spouse of Disabled Veteran

House Joint Resolution 562 (Chapter 770) is a first resolution proposing a constitutional amendment providing that the real property tax exemption for the principal residence of the surviving spouse of a disabled military veteran applies without any restriction on the spouse's moving to a different principal place of residence. In the event that a second resolution on the proposal is passed in the 2018 Session, the proposal will be put to a referendum of the voters.

Effective: July 1, 2017

Real Property Tax Exemption for Certain Surviving Spouses

House Bill 1884 (Chapter 248) provides the necessary statutory authorization required by the constitutional amendment adding § 6-B to Article X of the Constitution of Virginia authorizing the General Assembly to allow localities to exempt from taxation real property that is the principal residence of a surviving spouse of any covered person. A covered person is any law-enforcement officer, firefighter, search and rescue personnel, or emergency medical services personnel whose death occurred on or after April 8, 1972 as the direct or proximate result of the performance of his duty. The exemption for the surviving spouse began on January 1, 2017, if the surviving spouse has a principal residence and the covered person's death occurred on or prior to January 1, 2017. The exemption begins on the date the covered person dies, if the death occurs after January 1, 2017, or the date of acquisition, if the surviving spouse acquires the residence after January 1, 2017. This constitutional amendment was adopted by voters at the November 8, 2016 election.

This Act also provides that the exemption applies without any restriction on the surviving spouse moving to a different principal place of residence. The exemption will cease if the surviving spouse remarries.

Effective: July 1, 2017
Adds: §§ 58.1-3219.13 through 58.1-3219.16

Real Property Tax Partial Exemption for Certain Commercial and Industrial Structures

House Bill 1455 (Chapter 24) authorizes localities to partially exempt from real estate taxation any structure or other improvement older than 15 years that has undergone substantial rehabilitation, renovation or replacement for commercial or industrial use that is located in a local technology zone.

Under current law, localities are authorized to partially exempt from real estate taxation structures that have undergone substantial rehabilitation, renovation, or replacement for commercial or industrial use. The structures being exempted must be no less than 20 years old or no less than 15 years old if the structure is located within an area designated as an enterprise zone by the Commonwealth.

Effective: July 1, 2017
Amended: § 58.1-3221

Board of Equalization Members

House Bill 1820 (Chapter 435) requires that a board of equalization for real estate assessments in any county having the county manager plan of government be composed of an odd number of not less than three nor more than 11 members. This Act will require the circuit court of the county to appoint members equal to the lowest number that constitutes a majority of the board and the local governing body will appoint the remainder of the board. The circuit court and the governing body are required to make the initial appointment of the members of the board on or before November 1, 2017. Such appointments will be for the remaining portion of the terms of the current members.

Under current law, if a majority of voters in a county with a county manager plan of government vote in a referendum to establish a department of real estate assessments, the governing body must annually appoint a board of equalization of real estate assessments composed of not less than three nor more than 11 members to hear applications of relief from assessments made by the department.

Effective: July 1, 2017
Amends: §§ 15.2-716, 15.2-716.1

SEVERANCE TAXES

Local Gas Improvement Tax Extension of Sunset Provision

House Bill 2169 (Chapter 52) and Senate Bill 886 (Chapter 443) extend the sunset date for the local gas road improvement tax from January 1, 2018 to January 1, 2020.

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% are paid into a special fund in each locality called the Coal and Gas Road Improvement Fund, where at least 50% are spent on road improvements and 25% may be spent on new water and sewer systems or the construction, repair, or enhancement of natural gas systems and lines within the locality;
- The remaining 25% 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.

Effective: July 1, 2017
Amended: § 58.1-3713

TANGIBLE PERSONAL PROPERTY TAX

Personal Property Tax on Business Property

House Bill 2193 (Chapter 116) increases the maximum original cost of each item of tangible personal property, from \$250 to \$500, that localities are required to allow business taxpayers to report in an aggregate summary of all such miscellaneous and incidental tangible personal property employed in a trade or business rather than reporting each item individually.

Effective: July 1, 2017
Amended: § 58.1-3506

Personal Property Tax Compilation by Treasurer

House Bill 2455 (Chapter 440) requires each treasurer to compile an annual list of trailers, semitrailers, watercraft, and manufactured homes with uncollected balances of previously billed tangible personal property taxes 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.

Under current law, treasurers are required to compile such lists only with respect to vehicles.

Effective: July 1, 2017
Amended: § 58.1-3921

Commercial Fishing Vessels Classification

Senate Bill 1205 (Chapter 447) creates a separate classification for commercial fishing vessels and property permanently attached to such vessels for the purposes of the tangible personal property tax.

Under current law, commercial fishing vessels are included within the general classification of tangible personal property.

2017 LEGISLATIVE SUMMARY – LOCAL TAXES

Effective: July 1, 2017
Amended: § 58.1-3506

BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE TAXES

BPOL Tax on Peddlers and Itinerant Merchants

House Bill 1626 (Chapter 28) requires localities that impose a requirement that peddlers and itinerant merchants subject to the Business, Professional and Occupational License (“BPOL”) Tax display their license on their vehicle or temporary place of business to supply those peddlers and merchants with a decal, sticker, or adhesive label that satisfies the display requirement.

Effective: July 1, 2017
Amended: § 58.1-3717

BPOL Tax on Defense Production Businesses

House Bill 1889 (Chapter 111) and Senate Bill 1274 (Chapter 430) clarify that the manufacturing exemption from the Business, Professional, and Occupational License (“BPOL”) fee and tax extends to a manufacturer who is also a defense production business selling manufacturing, rebuilding, repair, and maintenance services at the place of manufacture:

- To the United States; or
- For which consent of the United States is required.

Under current law, localities may not impose a BPOL fee or tax on a manufacturer for the privilege of manufacturing and selling goods, wares and merchandise at wholesale at the place of manufacture. For purposes of this Act, “defense production business” is defined as a “business engaged in the design, development, or production of materials, components, or equipment required to meet the needs of national defense.”

Effective: July 1, 2017
Amended: §§ 58.1-3700.1, 58.1-3703

Methodology for Deducting Certain Gross Receipts from the BPOL Tax

House Bill 1961 (Chapter 50) requires the Department of Taxation to promulgate regulations that clarify the appropriate methodology for determining deductible gross receipts attributable to business conducted in another state or a foreign country for purposes of the local Business, Professional, and Occupational License Tax. This Act requires the regulations to be based on previous rulings of the Tax Commissioner and the decision of the Supreme Court of Virginia in *The Nielsen Company, LLC v. County Board of Arlington County*, 289 Va. 79 (2015).

Effective: July 1, 2017

OTHER LOCAL TAXES

Wireless E-911 Fund Distribution to Localities

House Bill 1719 (Chapter 260) and Senate Bill 1003 (Chapter 22) postpone the date by which the Department is required to recalculate the distribution percentage of Wireless E-911 Fund revenues for each Public Safety Answering Point (“PSAP”) from July 1, 2017 to July 1, 2018.

Under current law, 60 percent of the Wireless E-911 Fund is distributed on a monthly basis to PSAPs based on each PSAP’s average pro rata distribution from the Wireless E- 911 Fund for fiscal years 2007 through 2012. On or before July 1, 2017, and every five years thereafter, the Department of Taxation is required to recalculate the distribution percentage for each PSAP based on the cost and call load data of the PSAP for the previous five fiscal years.

Effective: July 1, 2017
Amends: § 56-484.17

Food and Beverage Tax Referendum Limitations

Senate Bill 1296 (Chapter 833) imposes a three year moratorium on any referenda initiated by a resolution of the board of supervisors to impose a local food and beverage tax once the voters of the county fail to approve the levy of the tax in a referendum. This Act also requires that the ballot question in any referendum held for the purposes of approving a food

2017 LEGISLATIVE SUMMARY – LOCAL TAXES

and beverage tax contain language specifying the total percentage of all ad valorem taxes to be assessed on meals if the proposed meals tax is imposed at the maximum rate of four percent.

Under current law, every county is authorized to levy a tax on food and beverages sold for human consumption by a restaurant at a maximum rate of four percent of the amount charged for such food and beverages. Generally, in order for a county to impose the tax, the tax must be approved in a referendum within the county.

Effective: July 1, 2017
Amends: § 58.1-3833

Admissions Tax in Washington County

Senate Bill 1320 (Chapter 450) authorizes Washington County to impose an admissions tax of up to ten percent of the amount of the charge for admission to a multi-sports complex and entertainment venue, excluding movie theaters, within the county that is located on all or part of a parcel of land or on adjacent parcels of land, containing at least 250 acres and that is in business on or before June 30, 2027. The provisions of this Act expire on July 1, 2027 if no multi-sports complex and entertainment venue is in business in Washington County on or before June 30, 2027.

Under current law, the counties of Arlington, Brunswick, Culpepper, Dinwiddie, Fairfax, New Kent and Prince George are authorized to levy a tax on admissions at a maximum rate of ten percent. The counties of Charlotte, Clarke, Madison, Nelson, Sussex, Scott, and Stafford have limited authority to impose the tax. No other counties are authorized to impose an admissions tax.

Effective: July 1, 2017
Added: § 58.1-3818.03

TRANSIENT OCCUPANCY TAXES

Powhatan County, Goochland County and Warren County Transient Occupancy Tax

House Bill 1415 (Chapter 23) adds Goochland County, Powhatan County, and Warren County to the list of counties 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 must 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 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, 2017
Amended: § 58.1-3819

LEGISLATIVE

STUDIES

Joint Subcommittee to Study Local Government Fiscal Stress

Item 1 (U) of the 2017 Appropriation Act (House Bill 1500, Chapter 836) establishes the Joint Subcommittee to Evaluate Local Government Fiscal Stress. The Joint Subcommittee will have a total membership of eleven legislative members that will consist of six members of the House of Delegates and five members of the Senate. This Joint Subcommittee will be responsible for reviewing:

- Savings opportunities from increased regional cooperation and consolidation of services;
- Local responsibilities for service delivery of state-mandated or high priority programs;
- Causes of fiscal stress among local governments;
- Potential financial incentives and other governmental reforms to encourage increased regional cooperation; and
- The different taxing authorities of cities and counties

No recommendation of the Joint Subcommittee will be adopted if a majority votes against the recommendation. The Joint Subcommittee will be responsible for submitting to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the next Regular Session of the General Assembly for each year.

Effective: April 28, 2017

Accelerated Sales Tax Work Group

Item 274 (D) of the 2017 Appropriation Act (House Bill 1500, Chapter 836) requires the Department to convene a workgroup to examine the provisions related to the timing of payments and return filings required of registered dealers. The workgroup will include the staffs of the House Appropriation and Senate Finance Committees, the Secretary of Finance or his designee, and representatives from affected businesses and industries. Additional staff support will be provided by the Department of Taxation and the Division of Legislative Services upon request. The workgroup will consider alternatives and limitations to the current accelerated sales tax requirement and may examine other sales tax-related issues as it deems appropriate. The workgroup will complete its meetings by November 30, 2017, and submit to the Governor and the Chairmen of the House Appropriation and Senate Finance Committees a report of its findings and recommendations no later than the first day of the 2018 Regular Session of the General Assembly.

Effective: April 28, 2017

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