

2008 LEGISLATIVE SUMMARY



Virginia
Department of Taxation

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Tax Commissioner

INTRODUCTION

The **Legislative Summary** is published by the Department of Taxation (TAX) as a convenient reference guide to state and local tax legislation enacted by the 2008 Session of the General Assembly through adjournment *sine die* on March 13, 2008. 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 TAX, and
- ◆ Local taxes for which TAX assists with administration or on which TAX renders advisory assistance.

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

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

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

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

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

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

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

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

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

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

Virginia Department of Taxation
May 2008

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STATE TAX

LEGISLATION

GENERAL PROVISIONS

Offset of State Debts Against Federal Income Tax Refunds

House Bill 1023 (Chapter 314) authorizes the Comptroller to enter into an agreement with the United States expanding the Commonwealth of Virginia's current participation in the U.S. Department of Treasury Offset Program ("TOP") to include the offset of non-tax federal payments to collect state debts.

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

Code Sections Amended: § 2.2-4806

Code Section Added: § 2.2-4809

INCOME TAX

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

House Bill 912 (Chapter 1) and Senate Bill 582 (Chapter 2) advance Virginia's date of conformity to the IRC from December 31, 2006 to December 31, 2007. This will avoid the necessity of requiring taxpayers to make adjustments for any federal tax changes enacted in 2007. Virginia will continue to disallow any bonus depreciation allowed for certain assets under federal income taxation and any five year carry-back of NOLs allowed for NOLs generated in either taxable year 2001 or 2002.

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

- The Small Business and Work Opportunity Tax Act of 2007, which increases and extends § 179 expensing and provide several other tax breaks for small businesses;
- House Resolution 4118, which excludes income received from Virginia Polytechnic Institute and State University out of amounts transferred from the Hokie Spirit Memorial Fund if such amounts were paid on account of the tragic event on April 16, 2007; and
- The Tax Mortgage Forgiveness Debt Relief Act of 2007, which creates an exception to current law so that certain homeowners do not have to pay taxes for debt forgiveness on their troubled home loans. The bill also extends a provision allowing homeowners to deduct mortgage insurance payments from their taxable income and provides other forms of tax relief.

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

Effective Date: February 4, 2008.

Code Section Amended: § 58.1-301.

Neighborhood Assistance Act Income Tax Credit Provisions Moved; Automobile Donations

House Bill 680 (Chapter 585):

- Moves the Neighborhood Assistance Act Tax Credit program from Title 63.2 [Welfare (Social Services)] to Title 58.1 (Taxation) and provides a cross-reference to the tax credit program in Title 63.2 (§ 63.2-2002). The Commissioner of the Department of Social Services ("DSS") will continue to be responsible for administering the tax credit program.
- Allows a business firm that pledged a donation in writing on or before January 1, 2006, to receive a tax credit equal to 45 percent of the value

of the donation if the donation is made on or before January 1, 2013. The credit percentage had previously been reduced in the Appropriations Act from 45% to 40% effective July 1, 2007.

- Allows a business that donates a vehicle to a qualifying neighborhood organization to use the value determined for federal income tax purposes. This overturns a regulation adopted by the Department of Social Services limiting the value of vehicles donated for sale, auction or raffle to the amount that the organization receives for the vehicle.

Effective Date: July 1, 2008.

Code Section Amended: § 63.2-2002.

Code Sections Added: §§ 58.1-439.18 through 58.1-439.24.

Code Sections Repealed: §§ 63.2-2000, 63.2-2001, and 63.2-2003 through 63.2-2006.

Neighborhood Assistance Act Income Tax Credit Provisions Expanded

Senate Bill 700 (Chapter 463) modifies the Neighborhood Assistance Act Credit by allowing individuals to receive tax credits for donations of marketable securities. Previously, individuals could only receive credits for monetary donations.

Effective Date: July 1, 2008

Code Section Amended: § 63.2-2006

Land Preservation Income Tax Credit – Confidentiality

House Bill 662 (Chapter 785) ensures the confidentiality of any document that is required to be filed with the Department of Conservation and Recreation under the Land Preservation Tax Credit program. While current law provides that returns and most other information filed with the Department of Taxation are confidential, the confidentiality of documents filed directly with DCR was not clear.

Effective Date: July 1, 2008.

Code Section Amended: § 58.1-3.

Biodiesel and Green Diesel Fuel Producers Income Tax Credit

House Bill 139 (Chapter 482) creates an individual and corporate income tax credit for taxpayers producing up to two million gallons of biodiesel or green diesel fuels annually during the first three years of production. The credit is equal to \$0.01 per gallon of biodiesel or green diesel fuels produced, up to \$5,000 annually. The credit cannot exceed the tax liability of the taxpayer, but any unused amounts may be carried forward for the next three taxable years. In addition, taxpayers will be allowed to transfer unused but otherwise allowable credits for use by other taxpayers on Virginia income tax returns.

The Department of Mines, Minerals and Energy is required to certify that the biodiesel fuel or green diesel fuel producer has satisfied the requirements for the taxable year in which the credit will be allowed. In addition, the taxpayer is required to submit with his income tax return all documentation, as required by the Department of Taxation.

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

Code Section Added: § 58.1-439.12:02.

Launch Services Income Tax Subtraction

House Bill 238 (Chapter 211) and Senate Bill 286 (Chapter 149) create two new subtractions for individual and corporate income taxpayers.

- The first subtraction is for the gain from the sale of launch services to space flight participants or launch services intended to provide individuals the training or experience of a launch, without performing an actual launch. To qualify for this subtraction, the launch services are required to be performed in Virginia or originate from an airport or spaceport in Virginia.
- The second subtraction is for the gain recognized as a result of resupply services contracts for delivering payload entered into with the Commercial Orbital Transportation Services (“COTS”) division of the National Aeronautics and Space Administration (“NASA”) or other space flight entity. The launch is required to be from an airport or spaceport in Virginia.

Effective Date: Taxable years beginning on and after January 1, 2009.

Code Sections Amended: §§ 58.1-322 and 58.1-402.

Land Preservation Income Tax Credit – Administrative Provisions

House Bill 849 (Chapter 549) makes several changes in order to simplify the administration of the Land Preservation Tax Credit.

- First, it allows TAX to disclose certain information to both the transferor and transferee when audit adjustments are made to credits that have been transferred.
- Second, it allows the donor and any transferors and transferees to file an administrative appeal when there is a modification to the credit, even if they have not received an assessment. TAX has the discretion to permit the joinder of a party or consolidate appeals filed by different taxpayers if the interest of the party or the applications involve adjustments to credits arising from the same transaction or occurrence, provided that no

interests would be prejudiced and the joinder or consolidation advances administrative economy.

- Finally, because most large donations involve the use of pass-through entities, this bill adopts several procedures similar to those used by the federal government. The statute of limitations is extended when a pass-through entity is being audited so that assessments can be issued to the owners, but TAX is required to send notice of certain administrative proceedings to the owners of the pass-through entity.

Effective Date: Disclosures made in the course of assessing tax on or after July 1, 2008, and administrative proceedings pending on or filed after July 1, 2008.

Code Sections Amended: §§ 58.1-1820, 58.1-1821, 58.1-1822, 58.1-1825, and 58.1-1826.

Code Section Added: §§ 58.1-3.3 and 58.1-394.3.

Tax Preparer Use of 2D Barcodes

House Bill 678 (Chapter 217) modifies a 2004 requirement so that all large income tax return preparers must file returns electronically. The Tax Commissioner will still have the authority to waive this requirement, however, if it causes undue hardship. In addition, taxpayers are allowed to opt out of electronic filing; and any forms that cannot be accepted through electronic means may still be filed using 2D barcodes. Currently, large income tax preparers have the option of filing returns electronically or using software that produces 2D barcoded paper returns.

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

Code Sections Amended: § 58.1-9.

Filing Extensions for Military Personnel

House Bill 1024 (Chapter 591) extends certain tax and motor vehicle related deadlines for certain service members on active duty with the United States Armed Forces or the National Guard or other components as follows:

Driver's license renewal: The deadline for renewal of a driver's license is extended until 90 days after the completion of the member's service outside of the Commonwealth.

License plate and local vehicle registration: The deadline for license plate registration and local vehicle registration is extended until 90 days after the completion of the member's service outside of the United States.

Local property tax: The due date for real estate tax on a primary residence and personal property tax on a passenger vehicle is extended until 90 days after the completion of the member's deployment outside the United States.

Income tax: The due date for Virginia income tax is extended until 90 days after the completion of the member's deployment outside the United States.

The income tax extension supplements an administrative extension granted to service members serving in a combat zone. As described in Tax Bulletin 05-5 (4/26/2005), members of the Armed Forces serving in a combat zone receive either the same individual income tax filing and payment extensions as those granted to them by the Internal Revenue Service ("IRS") plus an additional fifteen days, *or* a one-year extension, whichever date is later. The Department of Taxation has also suspended the service member's obligation to make installment payments of estimated income tax while the filing and payment obligations are suspended because of service in a combat zone. Collection activities for any delinquent taxes attributable to other taxable years during the extension period was also suspended; and it was declared that no penalty or interest would accrue during the extension period. All extensions also apply to spouses of military personnel. For the purposes of these benefits described in Tax Bulletin 05-5, the term "combat zone" includes hazardous duty areas and contingency zones that qualify for similar federal extensions and tax benefits.

Effective Date: July 1, 2008.

Code Sections Amended: §§ 46.2-221.2, 46.2-221.4, 46.2-752, 58.1-341, and 58.1-3916.

Additional Withholding Exemptions

House Bill 1261 (Chapter 228) repeals 1989 legislation that has never been implemented, although through oversight it briefly became effective from July 1, 2002 through January 1, 2003. The 1989 legislation allowed individuals to claim additional withholding allowances to account for their itemized deductions. The General Assembly repeatedly delayed the effective date by subsequent legislation and included language in four budget bills to repeal the law, but the language expired with each budget. The bill is retroactive to the effective date of the first repeal in the budget.

Effective Date: January 1, 2003.

Code Sections Amended: None.

Riparian Forest Buffer Protection for Waterways Credit

House Bill 1309 (Chapter 449) includes individuals' grantor's trusts among the taxpayers eligible to claim the Riparian Forest Buffer Protection for Waterways Tax Credit. The bill overturns Public Document 07-200 (11/30/2007), in which the Department of Taxation ruled that trusts may not qualify for this credit.

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

Code Sections Amended: § 58.1-339.10.

Voluntary Contributions to Martin Luther King, Jr. Living History and Public Policy Center

Senate Bill 240 (Chapter 97) clarifies the distribution of the voluntary contribution for the Martin Luther King, Jr. Living History and Public Policy Center by eliminating inapplicable statutory references. The Department of Taxation would be directed to pay any moneys contributed under the voluntary contribution to the Board of Trustees of the Center. Under current law, no more than 25 voluntary contributions may be listed on the individual income tax returns. Following the statutory process enacted in 2005, the Department has added the voluntary contribution for the Martin Luther King, Jr. Living History and Public Policy Center Fund to the 2007 individual income tax return.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-344.3.

Voluntary Contributions to Community Foundations and the Foundation for Community College Education

House Bill 1000 (Chapter 313) adds Community Foundations and the Virginia Foundation for Community College Education to the list of voluntary contributions that may be added to the individual income tax return. Under current law, no more than 25 voluntary contributions may be listed on the individual income tax returns. Following the statutory process enacted in 2005, TAX intends to add the voluntary contribution for the Virginia Caregivers Foundation and the Virginia Military Family Relief Fund to the 2008 individual income tax return. The order in which voluntary contributions would be added to the return as space becomes available is:

- (1) Public Library Foundations,
- (2) Celebrating Special Children, Inc. Fund,
- (3) Medicare Part D Counseling Fund,
- (4) Community Foundations, and
- (5) Virginia Foundation for Community College Education.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-344.3.

Voluntary Contributions to Community Foundations

Senate Bill 561 (Chapter 461) also adds Community Foundations to the list of voluntary contributions that may be added to the individual income tax return. See the discussion of House Bill 1000 (Chapter 313) above for more information.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-344.3.

RETAIL SALES AND USE TAX

Audio and Visual Works Exemption Extended

House Bill 711 (Chapter 545) extends the sunset date from July 1, 2009, to July 1, 2019, for the Retail Sales and Use Tax exemption for audio and video works. The exemption is available for the lease, rental, license, sale, other transfer, or use of any audio or video tape, film or other audio visual work. The exemption was first enacted in 1995 and the sunset date was previously extended in 1997, 2002, and 2004.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-609.6.

WaterSense Products Exempted During Energy Star October Sales Tax Holiday

House Bill 1229 (Chapter 554) adds WaterSense qualified products to the items that qualify for exemption from the Retail Sales and Use Tax during the four-day Energy Star Sales Tax Holiday in October. WaterSense qualified products are defined as “those products that have been recognized as being water efficient by the WaterSense program sponsored by the U.S. Environmental Protection Agency as indicated by a WaterSense label.” WaterSense qualified products must also have a maximum sales price of \$2,500 per item and be purchased for noncommercial home or personal use to qualify for the exemption. This sales tax holiday will expire on July 1, 2012.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-609.1.

Printed Material Exemption Extended

Senate Bill 5 (Chapter 138) extends from July 1, 2008, to July 1, 2012, the exemption from the Retail Sales and Use Tax allowed for the purchase of printing materials by advertising businesses, when the printed material is distributed outside the Commonwealth. This exemption was first enacted in 1995 and was previously extended in 2002 and 2004.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-609.6.

Textbook Exemption Extended

Senate Bill 392 (Chapter 569) will expand the application of the current sales and use tax exemption on sales of textbooks for use by students attending nonprofit colleges and other nonprofit institutions of learning to include students who attend for-profit institutions of learning.

Effective Date: July 1, 2010.

Code Sections Amended: § 58.1-609.10.

Exemption for Computer Equipment Used in Data Centers

House Bill 1388 (Chapter 558) and Senate Bill 668 (Chapter 764) provide an exemption from the Retail Sales and Use Tax for computer equipment purchased or leased on or before June 30, 2011 used in data centers for the processing, storage, retrieval or communication of data, including but not limited to servers, routers, connections and other enabling hardware. Purchased or leased upgrades, additions to, or replacement of such equipment would also be exempt. In order to be eligible for this exemption:

- The computer equipment must be part of a new investment of at least \$75 million in such exempt property;
- The data center must be located in a Virginia locality having an unemployment rate above 4.9 percent for the calendar quarter ending November 2007;
- The data center must create at least 100 new jobs paying at least twice the prevailing average wage; and
- The investment must be made in accordance with a memorandum of understanding with the Virginia Economic Development Partnership Authority entered into or amended between January 1, 2008 and December 31, 2008.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-609.3.

COMMUNICATIONS SALES AND USE TAX

Bath County Share of Communications Tax Revenue

House Bill 487 (Chapter 25) and Senate Bill 262 (Chapter 148) revise the formula for distributions from the Communications Sales and Use Tax Trust Fund so that Bath County will receive a share. Existing law bases the distribution upon revenue from local communications taxes in fiscal year 2006. Because Bath County did not impose any communications taxes in fiscal year 2006, it is not entitled to any distribution even though its residents are paying the communications sales and use tax. Under this legislation, Bath County will receive the same amount as Craig County.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-662.

MISCELLANEOUS TAXES

Title 3.1 Recodified

House Bill 1331 (Chapter 860) recodifies Chapter 3.1 into Title 3.2 of the Code of Virginia without substantive change. Included in this title are several taxes and assessments on agricultural commodities that are administered by the Department of Taxation. The relevant sections are:

<u>Commodity</u>	<u>Current Law</u>	<u>Recodified As</u>
Apple	§ 3.1-611 et seq.....	§ 3.2-1200 et seq.
Cattle	§ 3.1-796.12 et seq.....	§ 3.2-1300 et seq.
Corn.....	§ 3.1-1031 et seq.....	§ 3.2-1400 et seq.
Cotton.....	§ 3.1-1081 et seq.....	§ 3.2-1500 et seq.
Egg	§ 3.1-796.11:2 et seq.....	§ 3.2-1600 et seq.
Peanut	§ 3.1-647 et seq.....	§ 3.2-1900 et seq.
Pork (Slaughter Hog & Feeder Pig)	§ 3.1-763.9.....	§ 3.2-2000 et seq.
Sheep	§ 3.1-1065 et seq.....	§ 3.2-2100 et seq.
Small Grains	§ 3.1-684.41 et seq.....	§ 3.2-2200 et seq.
Soybean	§ 3.1-684.1 et seq.....	§ 3.2-2300 et seq.

The Department of Taxation ceased collecting the taxes on cattle and pork when similar federal taxes were imposed.

Effective Date: October 1, 2008.

Code Sections Repealed and Added: See above.

Tire Recycling Fee Increase Extended

House Bill 1398 (Chapter 32) and Senate Bill 335 (Chapter 158) extend the current \$1.00 tire recycling fee from July 1, 2008, until July 1, 2011. Thus, the scheduled reduction in the fee to 50 cents has been postponed from July 1, 2008, until July 1, 2011.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-641.

LOCAL TAX

LEGISLATION

TRANSPORTATION AUTHORITY TAXES AND FEES

Repeal Tax on Motor Vehicle Repair Services

House Bills 361 (Chapter 484) and 579 (Chapter 488) repeal the statutory language that authorized a sales and use tax on motor vehicle repair labor or services to be imposed by the Hampton Roads Transportation Authority and the Northern Virginia Transportation Authority. On February 29, 2008, the Virginia Supreme Court held that the General Assembly could not delegate the power to impose such a tax to either Authority because the members of its governing body are not elected.

Effective Date: July 1, 2008.

Code Sections Amended: §§ 58.1-605 and 58.1-606.

Refund Taxes on Motor Vehicle Repair Services and Other Taxes Imposed by the Northern Virginia Transportation Authority

House Bill 1578 (Chapter 652) provides for the return of the seven taxes and fees imposed by the Northern Virginia Transportation Authority as follows:

- The Department of Motor Vehicles (DMV) will return the 1% initial vehicle registration fee and the \$10 regional registration fee by mail beginning in early April. DMV has published guidelines for the return of the fees on www.dmvNOW.com.
- The Clerks of the Circuit Courts will work with settlement agents to return the congestion relief fee (real estate grantor's tax) to the affected settlement agents within 60 days. The settlement agent will in turn refund the individuals or entities that paid the congestion relief fee. The Clerks have jointly developed uniform guidelines for the return of the fee within 60 days.
- The 2% vehicle rental tax, 2% transient occupancy tax, \$10 safety inspection fee and the 5% sales tax on motor vehicle repair will be sent to the Unclaimed Property Division of the Department of the Treasury. Citizens may request refunds from the Unclaimed Property Division. The Department of Treasury is working to finalize guidelines for refunding money.
- The Department of Taxation (TAX) issued Tax Bulletin 08-6 directing dealers who collected the 5% sales tax on motor vehicle repair to send all the taxes they collected to TAX by May 6 so that TAX can send the funds to the Unclaimed Property Division of the Department of the Treasury.

Effective Date: March 25, 2008.

Code Sections Affected: None.

TANGIBLE PERSONAL PROPERTY TAX

Extends Sunset Date for Separate Classification of Certain Property

House Bill 625 (Chapter 26) and Senate Bill 192 (Chapter 94) extend the sunset date from June 30, 2009 to June 30, 2019 for the separate classification, for personal property tax rate purposes, of tangible personal property used in manufacturing, testing or operating satellites within a Multicounty Transportation Improvement District. This separate classification is currently set to expire on the earlier of June 30, 2009, or the date on which a special improvements tax on real property in a Multicounty Transportation Improvement District is no longer levied in accordance with *Va. Code* § 15.2-4607.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-3506.

Treasurer to Add Uncollected Balances to Delinquent List

House Bill 869 (Chapter 550) requires the Treasurer to furnish to local governing bodies a list of uncollected balances of personal property taxes on vehicles that (i) were owned by taxpayers, now deceased, upon whose estates no qualification has been made, or (ii) were transferred to bona fide purchasers for value without knowledge, on the part of the persons who made the transfer, of the unpaid taxes. This bill would also require that the Treasurer be given credit for all uncollected taxes shown on the list, thus relieving the Treasurer of any further duty to collect such taxes.

Under current law, the Treasurer is required to create lists for six separate categories of delinquent or uncollectible taxes within 60 days of the end of the fiscal year, including the category for uncollected balances of personal property taxes on certain vehicles, as set forth above. The current statute requires that, upon request by a governing body of any locality, the Treasurer must furnish a copy of any of the first five separate categories of uncollected or delinquent taxes maintained by the Treasurer. The statute does not currently require the Treasurer to furnish to local governing bodies the sixth category, consisting of uncollected balances of personal property taxes on certain vehicles, as set forth above.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-3924.

Separate Classification for Low-Speed Vehicles

Senate Bill 195 (Chapter 143) creates a separate classification for local property tax purposes for low-speed vehicles. The *Code* defines low-speed vehicles as any four-wheeled electrically-powered vehicle, except a motor vehicle or low-speed vehicle that is used exclusively for agricultural or horticultural purposes or a golf cart, whose maximum speed is greater than 20 miles per hour but not greater than 25 miles per

hour and is manufactured to comply with safety standards contained in Title 49 of the Code of Federal Regulations, § 571.500. Low-speed vehicles are similar to golf carts. However, because they are capable of exceeding a speed of 20 miles per hour, low-speed vehicles are subject to Federal Motor Vehicle Safety Standard No. 500 (49 CFR 571.400), whereas golf carts are only subject to state and local requirements regarding safety equipment.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-3506.

REAL ESTATE TAX

Exemptions for Elderly or Disabled

Background

The *Code of Virginia* authorizes localities to provide real estate tax exemptions or deferrals to the elderly or disabled, provided that they meet certain income and net worth limitations. The *Code* divides localities into three groups and specifies a maximum dollar amount for the income and net worth limitations (and other conditions) applicable to each group as follows:

		Effective Through June 30, 2008		Effective On and After July 1, 2008	
		<u>Income</u>	<u>Net Worth</u>	<u>Income</u>	<u>Net Worth</u>
General Group		\$50,000	\$200,000	\$50,000	\$200,000
		Applies to all localities not included in one of the special groups below.		Applies to all localities not included in one of the special groups below.	
S P E C I A L	I	\$62,000	\$350,000.	\$67,000	\$350,000.
	Applies to: Cities of Charlottesville, Chesapeake, Norfolk, Portsmouth, Richmond, Suffolk, and Virginia Beach and the Counties of Chesterfield, Goochland, and Henrico.		Applies to: Cities of Charlottesville, Chesapeake, <i>Hampton, Newport News</i> , Norfolk, Portsmouth, Richmond, Suffolk, and Virginia Beach and the Counties of Chesterfield, Goochland, <i>Hanover</i> , Henrico, and <i>Powhatan</i> .		
G R O U P	II	\$75,000	\$540,000.	\$75,000	\$540,000.
	Applies to: Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park, and the Counties of Arlington, Clarke, Fairfax, Fauquier, Loudoun, Prince William, and Stafford, and in any incorporated town located in such counties.		Applies to: Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park, and the Counties of Arlington, Clarke, Fairfax, Fauquier, Loudoun, Prince William, and Stafford, and in any incorporated town located in such counties.		

Exemptions for Elderly or Disabled – Limits increased

House Bill 698 (Chapter 298) transfers the Cities of Hampton and Newport News and the Counties of Hanover and Powhatan from the general group to the first special group, and increases the specified income limit for the first special group from \$62,000 to \$67,000; the net worth limit is unchanged at \$350,000. These limits apply in the Cities of Charlottesville, Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Richmond, Suffolk, and Virginia Beach and the Counties of Chesterfield, Goochland, Hanover, Henrico, and Powhatan.

Effective Date: July 1, 2008.

Code Sections Amended: §§ 58.1-3211 and 58.1-3211.1.

Exemptions for Elderly or Disabled – Limits increased

House Bill 1503 (Chapter 231) and Senate Bill 203 (Chapter 144) raise the maximum income eligibility restrictions in the first special group from \$62,000 to 67,000; the net worth limit is unchanged at \$350,000. These limits apply in the Cities of Charlottesville, Chesapeake, Norfolk, Portsmouth, Richmond, Suffolk, and Virginia Beach and the Counties of Chesterfield, Goochland, and Henrico.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-3211.

Exemptions for Elderly or Disabled – Limits increased

Senate Bill 283 (Chapter 695) transfers the Cities of Hampton and Newport News and the Counties of Powhatan and Hanover from the general group to the first special group authorized to use an income limitation of \$62,000 and a net worth limitation of \$350,000. These limits apply in the Cities of Charlottesville, Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Richmond, Suffolk, and Virginia Beach and the Counties of Chesterfield, Goochland, Hanover, Henrico, and Powhatan.

Effective Date: July 1, 2008.

Code Sections Amended: §§ 58.1-3211 and 58.1-3211.1.

Exemptions for Elderly or Disabled – Use of Current Year's Income

House Bill 163 (Chapter 208) authorizes localities that allow a real property tax exemption or deferral to an elderly or handicapped person based on the applicant's prior year's income and financial worth to also grant an exemption or deferral based on the anticipated income and net worth for the current year. The bill would require the applicant to file an affidavit to demonstrate a substantial change of circumstances that would result in income and financial worth levels that are within the limitations of the ordinance.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-3215.

Exemptions for Elderly or Disabled – Income of Nonrelatives

House Bill 1479 (Chapter 334) allows exemption and deferral programs for the elderly and handicapped to include the income of nonrelatives living in the applicant's dwelling, except for bona fide tenants or bona fide caregivers of the owner, when computing the maximum income limits to be eligible for the tax relief.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-3211.

OTHER

Classification of Certain Energy Efficient Buildings

House Bill 239 (Chapter 288) and Senate Bill 174 (Chapter 401) add other performance guidelines and standards that energy efficient buildings could meet or exceed to be classified as a separate class of real property. Any building that meets or exceeds performance guidelines or standards under the Green Globes Green Building Rating System of the Green Building Initiative, Leadership in Energy and Environmental Design (LEED) Green Building Rating System, EarthCraft House program, or Energy Star program would also be defined as an energy-efficient building. Certification of energy efficiency would be determined by a certification issued under any one of the programs or a determination by an architect or engineer designated by the locality that the building meets or exceeds the performance guidelines or standards under any one of the four programs. Under current law, only buildings that exceed the energy efficiency standards prescribed in the Virginia Uniform Statewide Building Code by at least 30 percent are deemed energy-efficient buildings, and the certification of energy efficiency is performed by an engineer or contractor that is not related to the taxpayer.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-3221.2.

Certification of Assessors and Appraisers

House Bill 314 (Chapter 540) requires the Department of Taxation to establish a certification program for all supervisors, assessors and appraisers contracted by any county or city to perform assessments or reassessments of real property. The certification requirements would include (i) minimum education, training and experience; and (ii) standards of conduct and practice. The bill would require such supervisors, assessors and appraisers to be certified by the Department prior to being contracted to perform assessment and reassessment services for localities.

The Department currently certifies one full-time assessor or real estate appraiser in each city and county, and the applicant must have (i) a comprehensive knowledge of modern real estate appraisal and assessment practices and related regulations and laws; (ii) graduated from college preferably with a degree in Business, Real Estate, or Economics and six years of real estate appraisal experience, including three year administrative experience, or any equivalent combination of experience and training; and (ii) a valid Virginia driver's license.

Effective Date: July 1, 2008.

Code Sections Amended: §§ 58.1-3253, 58.1-3258, 58.1-3271, 58.1-3275, and 58.1-3276.

Code Section Added: §§ 58.1-3258.1 and 58.1-3258.2.

Public Service Corporation Property

House Bill 1123 (Chapter 642) provides that the real and tangible personal property of public service corporations and electric suppliers is not subject to the additional real property tax on commercial and industrial property imposed by a member locality of the Hampton Roads Transportation Authority unless a final certificate of occupancy for a commercial or industrial use has been issued and remains in effect.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-2606.

MISCELLANEOUS TAXES

Admissions Tax Authorized in Scott County

House Bill 220 (Chapter 210) authorizes Scott County to impose a tax on admissions to any off-track horse race wagering facility located in the county in the amount of \$0.25 for each patron. Currently, under *Code of Va.* § 58.1-3840, cities and towns that have general taxing powers in their charters may impose an excise tax on admissions. However, counties are limited in their taxing powers. Roanoke County imposes an admissions tax pursuant to its amended charter. The counties of Fairfax, Arlington, Dinwiddie, Prince George, Brunswick, Culpeper and New Kent are currently authorized to impose an admissions tax under *Code of Va.* § 58.1-3818, but the tax may not exceed ten percent of the admission charge for attendance to an event.

Effective Date: July 1, 2008.

Code Section Added: § 58.1-3818.01.

Tourism Zones

Senate Bill 591 (Chapter 462) increases, from ten years to twenty years, the time period in which any locality may provide tax incentives in a tourism zone. Currently, localities are authorized to establish one or more tourism zones and provide tax incentives within tourism zones for up to ten years. The incentives include, but are not limited to: (i) reduction of permit fees, (ii) reduction of user fees and (iii) reduction of any type of gross receipts tax.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-3851.

Additional Utility Tax In Fauquier County For Underground Lines

House Bill 357 (Chapter 355) adds Fauquier County to those localities that may request an electric utility that proposes to construct an overhead electric transmission line of 150 kilovolts or more, any portion of which would be located in the county, to enter into an agreement that provides:

- the county will impose a tax or assessment on electric utility customers in a special rate district in an amount sufficient to cover the utility's additional costs of constructing that portion of the proposed line to be located in the county, or any smaller portion thereof as the utility and the county may agree, as an underground rather than an overhead line;
- the tax or assessment will be shown as a separate item on such customers' electric bills and will be collected by the utility on behalf of the county;

- the utility will construct, operate, and maintain the agreed portion of the line underground;
- the county will pay to the utility its full additional costs of constructing that portion of the line underground rather than overhead; and
- such other terms and conditions as the parties may agree.

Effective Date: July 1, 2008.

Code Sections Amended: § 15.2-2404.

TRANSIENT OCCUPANCY TAX

Arlington County Sunset Date Extended

House Bill 787 (Chapter 30) and Senate Bill 462 (Chapter 153) extend the sunset date from January 1, 2009, to January 1, 2012, for Arlington County to impose an additional transient occupancy tax at a maximum rate of one-fourth of one percent of the amount charged for the occupancy of any room or space occupied. The revenues collected from the additional tax are to be designated and spent in promoting tourism and business travel in the county.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-3822.

Numerous Counties Authorized to Impose Tax

House Bill 1453 (Chapter 230) requires certain localities to consult local tourism industry organizations in deciding how to spend revenue from the portion of their local transient occupancy tax that exceeds two percent. If there are no local tourism industry organizations in the locality, the governing body would be required to hold a public hearing prior to making any determination relating to attracting travelers to the locality and generating tourism revenues in the locality. Currently, these counties must spend the revenues generated by any portion of the transient occupancy tax that exceeds two percent on promoting tourism, travel or business that generates tourism or travel in the locality. However, these localities are not currently required to consult with local tourism industry organizations. The law applies to the Counties of Albemarle, Bedford, Botetourt, Cumberland, Floyd, Gloucester, King George, Loudon, Mecklenberg, Nelson, Prince Edward, Spotsylvania, Stafford, Wise, and York.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-3819.

Advertising Historic Triangle Area

Senate Bill 770 (Chapter 839) names the Greater Williamsburg Chamber and Tourism Alliance would serve as the fiscal agent for, and provide administrative support in coordination with, the Williamsburg Area Destination Marketing Committee to assure the integrity and accountability of expenditures of transient occupancy tax revenue in the Counties of James City and York. The status and membership of the Williamsburg Area Destination Marketing Committee is also specified.

Effective Date: July 1, 2008.

Code Sections Amended: § 58.1-3823.

LEGISLATIVE

STUDIES

Study of Single Sales Factor for Apportioning Corporation Income

House Joint Resolution 177 and Senate Joint Resolution 101 create a joint subcommittee to study the benefits of adopting a single sales factor to apportion the income of multistate corporations for purposes of the corporation income tax. The study will include the fiscal and economic impact of replacing Virginia's corporate multistate tax three-factor apportionment formula with a single sales factor formula. The study is not limited exclusively to the single sales factor issue, but may include other relevant topics of corporation income tax policy that may be impacted by a shift to a single sales factor, including, but not limited to, the use of cost of performance for determining the apportionment of service-based revenues, the income of financial corporations, and the institution of an optional single sales factor program exclusively available to specific industries identified in the Commonwealth's economic development strategic plan. The Joint Subcommittee will issue its report no later than the first day of the 2009 session of the General Assembly.

Study Local Incentives for Economic Development Purposes

House Joint Resolution 75 creates a joint subcommittee to study local incentives such as grants, tax incentives, and other assistance for economic development purposes provided to private businesses that locate or expand operations in the locality. In conducting its study, the joint subcommittee will (i) determine all incentives that localities are permitted to provide to private businesses; (ii) evaluate the impact of such incentives on smaller local competitors of the businesses that receive incentives; and (iii) evaluate the effectiveness of the incentives that are provided.

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