

Section 1

1999 Legislative Changes Affecting Local Taxation

This section summarizes the major changes in the *Code of Virginia* enacted by the 1999 session of the Virginia General Assembly for those taxes covered in this publication. The summary is taken verbatim from the Virginia Department of Taxation's 1999 *Legislative Summary*. The department's study also includes information on state taxes and new provisions governing tax collection and administration that are not reprinted in this publication. Additional information can be found in the Virginia Association of Counties' 1999 *State Legislation Affecting Counties* and the Virginia Municipal League's 1999 *Legislative Report*.

This section provides a synopsis of enacted legislation. It is for information purposes only. The listing is not a substitute for actual Department of Taxation regulations, state law, or local ordinances.

GENERAL PROVISIONS

Definition of Treasurer - Amended

Effective Date: March 15, 1999

Code Section Amended: § 58.1-3123

House Bill 1814 (Chapter 90) and House Bill 1841 (Chapter 777) expand the definition of a treasurer for local tax purposes to include town treasurers, town directors of finance, and any other town employee who performs any of the duties of a town treasurer or town director of finance. Many towns have officers or employees who perform very similar functions to city and county treasurers. These bills give the above persons the same powers as city and county treasurers for the purposes of collection of taxes and other charges.

Tax Increment Financing for Development - Expanded

Effective Date: July 1, 1999

Code Section Amended: § 58.1-3245.1

House Bill 1877 (Chapter 190) and Senate Bill 1221 (Chapter 162) expand the types of public facilities for which tax increment financing may be used to include real estate devoted to open-space use. Real estate devoted to open-space use is real estate preserved for park or recreational purposes, conservation of land and other natural resources, floodways, historic or scenic purposes or otherwise assisting in the shaping of community development. Tax increment financing allows localities to redevelop blighted areas. This is accomplished by localities issuing debt instruments and making commitments to redevelop specific blighted areas.

TANGIBLE PERSONAL PROPERTY TAX

Rate Adjustment - New

Effective Date: March 17, 1999

Code Section Amended: § 58.1-3523

House Bill 1851 (Chapter 189) changes the formula currently used in determining funding to localities, and tangible personal property tax relief to taxpayers, under the Personal Property Tax Relief Act of 1998. Under this bill, a locality is funded for any loss of local revenue attributable to tangible personal property tax relief, and taxpayers receive tangible personal property tax relief, in accordance with the tangible personal property tax rates in effect in the locality on July 1, 1997 or August 1, 1997, whichever is greater. The prior

formula for determining funding to localities and tangible personal property tax relief to taxpayers was based upon tangible personal property tax rates in effect in a Virginia locality on August 1, 1997.

Taxation on Aircraft of Public Service Corporations - Amended

Effective Date: July 1, 1999

Code Section Amended: § 58.1-2606

House Bill 2092 (Chapter 866) requires the aircraft of public service corporations to be taxed at the same rate as is applicable to other aircraft in the locality. Aircraft, like other tangible personal property owned by public service corporations, is currently taxed at the real estate rate applicable in the respective locality.

Production of the Personal Property Tax Book by Electronic Means - New

Effective Date: July 1, 1999

Code Section Amended: § 58.1-3118

House Bill 1944 (Chapter 52) allows commissioners of the revenue and other local assessing officers to produce the personal property tax book by electronic means in addition to the means currently authorized.

The personal property tax book is a record of all tangible personal property subject to tax in a locality and its corresponding value which is submitted to the treasurer of a locality for purposes of levying the local tangible personal property tax. Currently, commissioners of the revenue can use any microphotographic process for transmitting the personal property tax book to local treasurers.

Identifying Vehicles That Qualify for Personal Property Tax Relief - Amended

Effective Date: July 1, 1999

Code Section Amended: § 58.1-3526

House Bill 2312 (Chapter 99) allows commissioners of the revenue to identify vehicles qualifying for relief under the Personal Property Tax Relief Act of 1998 and their value by means other than the use of the certified personal property tax book. While this bill changes the means by which commissioners of the revenue can perform the identification process, the time frame in which this process must be completed by commissioners of the revenue is the same as required under current law.

Current law requires that the identity of qualifying vehicles and their value be reported to treasurers by September 1 or by such later date of extension as granted by the Tax Commissioner. This bill requires that commissioners of the revenue complete the identification process on or before September 1 or by a later date of extension as granted by the Tax Commissioner.

Property Classifications - Amended

Effective Date: July 1, 1999

Code Section Amended § 58.1-3506

Senate Bill 995 (Chapter 289) establishes a separate class of tangible personal property for tax rate purposes consisting of business personal property used in manufacturing, testing, or operating satellites by a business located within a Multicounty Transportation Improvement District. The creation of this separate classification of tangible personal property allows a locality to tax the machinery and tools of satellite manufacturers at a tangible personal property tax rate lower than the rate applicable to its general class of tangible

personal property. This classification exists only until the earlier of June 30, 2009, or the date that a special improvements tax on real property in a Multicounty Transportation Improvement District is no longer levied. This bill also eliminates the separate classification of tangible personal property previously created for machines and tools owned by a commercial air carrier and used in a commercial airline maintenance, repair, and rebuilding facility, with an assessed value of at least \$100,000,000 and located on or contiguous to an airport.

Classifications for Boats and Watercraft - New

Effective Date: July 1, 1999

Code Sections Amended: §§58.1-3506, 58.1-3902 and 58.1-3912

Senate Bill 1134 (Chapter 358) establishes three tangible personal property tax classifications for privately owned pleasure boats and watercraft used for recreational purposes: (1) boats 18 feet or more in length; (2) motorized boats less than eighteen feet; and (3) nonmotorized boats less than eighteen feet.

This bill also requires certain marina owners, who currently must report the boats stored at their marina to a Commissioner of the Revenue, to report such boats in a list divided into these new classifications. Finally, this bill allows treasurers not to send a tax bill if the amount of such bill is for twenty dollars or less.

Under current law, privately owned pleasure boats and watercraft used for recreational purposes only is a separate classification of tangible personal property. A locality may tax this property at a rate lower than the rate applicable to a locality's general class of tangible personal property.

Water Well Drilling Equipment - New

Effective Date: July 1, 1999

Code Sections Amended: §§ 58.1-1101 and 58.1-3507

Senate Bill 1312 (Chapter 396) subjects machinery and tools used by a water well drilling business to the local machinery and tools tax. This reclassification allows localities to tax machinery and tools used in water well drilling businesses at a rate equal to or lower than the rate imposed upon the general class of tangible personal property. Currently, tangible personal property used by a water well drilling business is subject to a locality's tangible personal property tax.

Under this bill, the remaining personal property owned by a water well drilling business (including but not limited to furniture, fixtures, office equipment, and computer equipment) is classified as intangible personal property subject to taxation only by the Commonwealth under the state's intangible personal property tax. The state tax rate on intangible personal property is zero.

This bill equalizes the treatment of property used in water well drilling with that of property used in mining. In other words, the machinery and tools used in both businesses would be subject to the local machinery and tools tax, and other personal property owned by these businesses would be classified as intangible personal property segregated for state taxation only.

REAL ESTATE TAX

Exemptions for Elderly or Disabled Persons in the Town of Lovettsville - Amended

Effective Date: July 1, 1999

Code Section Amended: § 58.1-3211

House Bill 2136 (Chapter 205) permits the Town of Lovettsville to raise, by ordinance, the income and net worth

limitations for elderly and permanently and totally disabled persons to qualify for an exemption from or deferral of real property taxes. Several localities are currently permitted to use a different income and financial worth limitation other than what is generally authorized. The new limitations under this bill are: (1) the greater of \$52,000 or income limits based upon family size for the respective metropolitan statistical area for the total combined income amount; and (2) \$195,000 for the maximum net combined financial worth amount. This bill permits the Town of Lovettsville to use these specific income and net worth limitations as opposed to those generally authorized.

Authorization of Local Governments to Grant Property Tax Exemptions - New

Effective Date: July 1, 1999

Code Section Amended: § 58.1-3651

House Bill 1679 (Chapter 979) would authorize local governments to grant, by ordinance, exemptions from local real and personal property taxes for selected nonprofit organizations. Such exemptions extend for a period of four years unless renewed by the locality.

Under current law, a two-step process is required for property to be exempt from local real and personal property taxes. First, after finding that the applicant is exempt from taxation pursuant to Internal Revenue Code § 501(c) and considering any other criteria, facts and circumstances which the governing body deems pertinent, a local governing body must adopt a resolution either approving or refusing to support an applicant's request for exemption. Such a resolution is adopted only after a public hearing on the matter.

Secondly, in accordance with the Virginia Constitution, Art. X, § (6)(a)(6), legislation designating the property as exempt must be adopted by a three-

fourths vote of both houses of the General Assembly. Under the Virginia Constitution, the General Assembly is granted the authority to exempt non-profit organizations from local real and personal property taxes. This bill would place that responsibility solely with localities.

Sliding Scale Tax Rate - New

Effective Date: July 1, 1999

Code Sections Amended: §§ 58.1-3231, 58.1-3234 and 58.1-3237

House Bill 2754 (Chapter 1026) permits localities to establish a sliding scale tax rate which would lower tax rates for real estate devoted to special use and held for longer periods of time. This sliding scale tax rate applies to real estate which is taxed on its agricultural, horticultural, open-space or forest use value and is available only to those taxpayers who enter into a written agreement, subject to a 20 year limit, with the locality under which they promise to use their real estate for such uses for a mutually agreed upon period of time.

The benefits of this sliding scale tax rate are in addition to, and do not change, current law which provides for special assessment of real estate (use value assessment as opposed to fair market value assessment) for real estate devoted to agricultural, horticultural, open-space or forest use. Use value assessment is available to taxpayers if a locality adopts a land-use plan and ordinance providing for use value assessment, but there is no requirement that an owner of real estate enter into a written agreement with the local governing body.

New Building Assessments in Fairfax County - New

Effective Date: July 1, 1999

Code Sections Amended: § 58.1-3292 and 58.1-3292.1

Senate Bill 776 (Chapter 760) permits any county operating under the urban county executive form of government (currently only Fairfax), by ordinance, to assess new buildings when they are substantially completed or fit for use and occupancy, regardless of the date of completion or fitness. This bill also permits any county operating under the urban county executive form of government to charge a penalty for late payment of tax, on assessments of new buildings substantially completed after November 1, beginning on the later of December 5 or thirty days following the date of billing. Under current law, for such assessments made after September 1, taxpayers have at least three months in which to pay without incurring penalty.

Under this bill, all other localities besides those operating under the urban county executive form of government (currently, Fairfax County) are still prohibited from assessing real estate taxes on new buildings substantially completed or fit for use after October 31 in a calendar year. Additionally, tax-payers in those localities still have at least three months to pay their real estate taxes, without incurring a penalty, on new buildings substantially completed or fit for use after September 1.

Providing Names and Addresses of Property Owners to Relative Property Owners Associations - New

Effective Date: July 1, 2000

Code Section Amended: § 58.1-3

Senate Bill 1297 (Chapter 973) authorizes a commissioner of revenue to provide to the representative of a condominium unit owners association, property owners association, or real estate cooperative association, or to the owner of property governed by any such association, the names and addresses of parties having a security interest in real property governed by the association.

Commissioners of Revenue may only release this information only upon a written request stating the reason for such request. The reason must be related to matters relating to the association, including but not limited to proposing or opposing changes to governing documents of the association. Any information received is to be used for its stated purpose. Any misuse of this information is a misdemeanor. The Commissioner of Revenue may require any person requesting information about an association to pay the reasonable cost of providing such information.

BPOL

Excess Collection of BPOL Tax by Motor Vehicle Dealers - New

Effective Date: July 1, 1999

Code Section Ammended: § 58.1-3734

House Bill 1930 (Chapter 862) and Senate Bill 1028 (Chapter 957) permit localities to provide, by ordinance, that any motor vehicle dealer who collects excess business license tax from purchasers must return the overpayments to the purchasers within 120 days of discovering the overpayment. These bills provide that any such amounts which are not refunded must be paid to the Commissioner of the Revenue as additional business license tax.

During a three-year period after receipt of such amounts, the commissioner of the revenue or other local assessing officer and the treasurer will refund such amounts as appropriate to purchasers who produce documentation verifying such overpayment. At the expiration of this period, the commissioner of the revenue or other local assessing officer will consider these funds as additional business license tax. The locality may recover from the motor vehicle dealer its costs of mailing, printing, and other reasonably necessary administrative costs related to refunding such amounts to purchasers.

Currently, motor vehicle dealers are allowed to separately state the amount of business license tax applicable to each sale of a motor vehicle and add this tax to the sales price of the motor vehicle. Current law does not address the situation of a dealer who overstates the amount of a BPOL tax applicable to a sale and keeps the difference.

Localities May Eliminate BPOL and Merchant s Capital Tax on Merchants - New

Effective Date: July 1, 1999

Code Sections Amended: § 58.1-3509 and 58.1-3704

House Bill 2062 (Chapter 200) authorizes any locality to exempt or partially exempt a merchant from the local BPOL tax or the merchants capital tax, or both. This bill follows from an amendment to Article X of the Virginia Constitution which was ratified by the voters of Virginia on November 3, 1998 with an effective date of January 1, 1999. The amendment provides that the General Assembly of Virginia may, by general law, authorize a local governing body to exempt merchants from the local merchants capital tax or certain businesses from the local BPOL tax, or both.

Out-of-State Contractors Subject to BPOL - New

Effective Date: July 1, 1999

Code Amended: § 58.1-3715

House Bill 2106 (Chapter 203) subjects to a locality s BPOL license tax or fee any contractor without a definite place of business in the locality when the amount of the business done there by such contractor will exceed \$25,000 for the year. A definite place of business means an office or a location at which occurs a regular and continuous course of dealing for thirty consecutive days or more. In some cases, a contractor's work in a locality will not exceed thirty days for the particular year meaning

that such contractor has not established a definite place of business in the locality.

Under current law, a Virginia contractor without a definite place of business in a locality is still subject to a locality's BPOL tax or fee if the amount of the business done in that locality exceeds \$25,000 for the year. Prior to the passage of this bill, this exception to the definite place of business requirement was not applicable to out-of-state contractors.

MISCELLANEOUS TAXES

Admissions Tax

Exemption for Charitable Events - New

Effective Date: July 1, 1999

Code Section Amended: § 58.1-3818

Code Section Added: 15.2-1104.1

House Bill 1810 (Chapter 986) allows a municipal corporation or county to adopt an ordinance to exempt from admissions tax charges for attendance at an event when the sole purpose of the event is to raise money for charitable purposes. To qualify for the exemption from the admissions tax, the net proceeds derived from the event must be transferred to a nonprofit charitable entity or entities that are exempt from the retail sales and use tax pursuant to §§ 58.1-609.4 (educational), 58.1-609.7 (medical-related), 58.1-609.8 (civic and community service), 58.1-609.9 (cultural), and 58.1-609.10 (miscellaneous).

Use Tax

Uniform Method of Use Tax Distribution - New

Effective Date: July 1, 1999

Code Section Amended: § 58.1-606

Senate Bill 1064 (Chapter 156) requires the Tax Commissioner to develop a uniform method to distribute local use tax revenue. Any significant changes in the method of the local use tax distribution must be phased in over a five-year period. The distribution information is required to be shared with the affected localities prior to implementation of the changes.

Currently, the 1 percent local use tax collected by dealers is distributed monthly to counties and cities based on the destination locality of purchases made by customers in Virginia, as reported by the dealers. When out-of-state dealers are unable to accurately assign a shipment to a particular city or county locality code, the dealers remit the tax to the department and it is distributed proportionately to all localities in Virginia.

Meals Tax

Prohibition on Local Food and Beverage Tax - New

Effective Date: July 1, 2000

Code Sections Amended: §§ 58.1-3833 and 58.1-3840

House Bill 1601 (Chapter 366) prohibits localities from imposing a local meals and beverage tax on food purchased for human consumption as defined under the federal food stamp program. This definition is broad and includes any food or food product for home consumption, except alcoholic beverages and tobacco, and hot food products ready for immediate consumption.

Under current law, localities may impose a tax on food and beverages sold for human consumption by a restaurant, not to exceed 8.5 percent when added to the general sales and use tax. In addition, counties may impose a local meals and beverage tax on sales of prepared foods ready for human consumption when sold by a grocery store, delicatessen or convenience store.

The food and beverage tax imposed on meals sold by grocery store delicatessens and convenience stores is limited to sales of prepared sandwiches and single-meal platters.

Items Subject to Tax - Amended

Effective Date: July 1, 2000

Code Section Amended: § 58.1-3840

Senate Bill 968 (Chapter 953) prohibits cities and towns from imposing the local meals and beverage tax on items sold by a grocery store delicatessen or convenience store except prepared sandwiches, beverages prepared on premise, and single-meal platters.

Under current law, localities may impose a tax on food and beverages sold for human consumption by a restaurant, not to exceed 8.5 percent when added to the general sales and use tax. Counties may impose a local meals and beverage tax on sales of prepared foods ready for human consumption when sold by a grocery store delicatessen or convenience store. The food and beverage tax imposed by counties on meals sold by grocery store delicatessens and convenience stores is limited to sales of prepared sandwiches and single-meal platters.

Combined Meals and Transient Occupancy Tax in Rappahannock County - New

Effective Date: July 1, 1999

Code Section Amended: § 58.1-3842

Senate Bill 778 (Chapter 617) authorizes Rappahannock County (defined in the bill by population brackets) to levy a combined transient occupancy and food and beverage tax on the aggregate charges for rooms and meals in bed and breakfast establishments when such charges are not separately stated. The tax is imposed (1) at a rate not exceeding 4 percent of the total combined charge for occupancy and the food, and (2) only if a food and beverage tax has been approved in a county-wide referendum.

This bill affects only certain facilities in Rappahannock County which provide both transient accommodations and food and beverages. The affected facilities are limited to bed and breakfast establishments. This bill allows (but not requires) such establishments to combine charges for rooms and meals and to apply the transient occupancy and food and beverage taxes to that combined charge at a rate not exceeding 4 percent.

TRANSIENT OCCUPANCY TAX

Rockbridge County Allowed to Impose Additional Tax - New

Effective Date: July 1, 1999

Code Section Amended: § 58.1-3819

House Bill 1618 (Chapter 241) and Senate Bill 1050 (Chapter 233) allow any county having a population of no less than 18,000 and no greater than 20,000 (only Rockbridge County) to impose a transient occupancy tax at a rate not to exceed 5 percent of the amount charged for the occupancy of any room or space occupied. The revenues collected from that portion of the tax over the 2 percent rate must be designated and spent solely for tourism, marketing of tourism or initiatives that attract travelers to the locality and generate tourism revenue in the locality. Rockbridge County currently imposes the tax at the maximum 2 percent rate.

Sunset Date for Arlington County s Additional 1/4 percent Tax - Extended

Effective Date: July 1, 1999

Code Amended: § 58.1-3822

House Bill 1626 (Chapter 242) and Senate Bill 837 (Chapter 228) extend the sunset date for the 1/4 percent additional transient occupancy tax which any county with the county manager plan of government (only Arlington County) may impose. The

sunset date is extended for three years, from December 31, 1999 to December 31, 2002.

Prince William County Allowed to Impose Additional Tax - New

Effective Date: July 1, 1999

Code Section Amended: § 58.1-3819

House Bill 2086 (Chapter 253) allows any county which has adopted the County executive form of government and which is contiguous to any county operating under the urban county executive form of government (only Prince William County) to impose a transient occupancy tax not to exceed 5 percent of the amount charged for the occupancy of any room or space occupied. The revenues collected from that portion of the tax over the 2 percent rate must be designated and spent on tourism and tourism initiatives as determined in consultation with the local tourism industry organizations.

Franklin County Allowed to Impose Additional Tax - New

Effective Date: July 1, 1999

Code Section Amended: § 58.1-3819

House Bill 2386 (Chapter 260) and Senate Bill 1098 (Chapter 234) allow any county having a population of no less than 34,500 and no greater than 39,560 (only Franklin County and James City County) to impose a transient occupancy tax at a rate not to exceed 5 percent of the amount of the charge for the occupancy of any room or space occupied. The revenues collected from that portion of the tax over the 2 percent rate must be designated and spent for tourism and tourism initiatives as determined in consultation with the local tourism industry organizations. Currently, James City County is already authorized to impose a transient occupancy tax at a rate not to exceed 5 percent of the amount of the charge for the occupancy of any room or space occupied. Therefore, these bills affect only Franklin County.