

## Section 1

# Summary of Legislative Changes in Local Taxation, 2003

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This section summarizes the major changes in the *Code of Virginia* enacted by the 2003 session of the Virginia General Assembly for those taxes covered in this publication. The summary is taken from the Virginia Department of Taxation's *2003 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. The full text of the *2003 Legislative Summary* can be found on the web at [www.tax.state.va.us/site.cfm?alias=LegislativeSummary](http://www.tax.state.va.us/site.cfm?alias=LegislativeSummary).

Additional information can be found in the Virginia Association of Counties' *2003 Summary of State Legislation Affecting Counties* (found on the web at [www.vaco.org/Legsum03.pdf](http://www.vaco.org/Legsum03.pdf)), and the Virginia Municipal League's *2003 Legislative Report*. To contact VML for a copy of its report, call 804-649-8471.

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

### GENERAL PROVISIONS

#### **Collection of Local Taxes; Extending the Statute of Limitations - Amended**

**Effective Date: July 1, 2003**

**Code Section Amended: § 58.1-3940**

House Bill 2659 (Chapter 214) clarifies that local taxes and other charges that have been reduced to a judgment or a judgment lien in a suit relating to their collection are not subject to the five-year limitation period for the collection of delinquent taxes and may be collected so long as the judgment or judgment lien remains enforceable under general law.

#### **Modifications to the Local Business Tax Appeals Process - Amended**

**Effective Date: July 1, 2003**

**Code Section Amended: § 58.1-3983.1**

House Bill 1932 (Chapter 196) makes two changes to the Local Business Tax appeals process administered by the Department of Taxation. This bill requires the Tax

Commissioner to determine within 30 days whether he has jurisdiction to hear an appeal of local business taxes. Further, this bill limits to 150 days (90 days plus a maximum 60-day extension) the time within which the Tax Commissioner must make a final determination on the merits of the appeal. If the Tax Commissioner is unable to make a determination within the prescribed timeframe due to a lack of necessary information, he may, upon written notification to the affected parties, extend the timeframe for a determination for an additional 60 days after all relevant facts are received by him. The time limitations put forth in this legislation are applicable to the Local Business Tax appeals process and not the appeals process for the business, professional, and occupational license taxes.

#### **Discount for Early Payment of Taxes - New**

**Effective Date: July 1, 2003**

**Code Section Amended: § 15.2-1104**

**Code Section Added: § 15.2-1202.2**

House Bill 2715 (Chapter 216) permits counties, cities and towns to establish, by local ordinance, discounts for early payment of local taxes or assessments. Current law grants localities the option of assessing penalties and interest for late payment of taxes; however, there is no provision for discounts associated with early payment of local taxes.

#### **Increase of Administrative Fees to Collect Delinquent Liabilities - Amended**

**Effective Date: Delinquent taxes and other delinquent charges collected on or after July 1, 2003**

**Code Section Amended: § 58.1-3958**

Senate Bill 1227 (Chapter 170) allows localities to increase the fees that may be charged for administrative costs incurred in the collection of delinquent taxes or other delinquent charges. The maximum fee charged to cover administrative costs for delinquent taxes and other charges collected subsequent to the filing of a warrant but prior to judgment will increase from \$20 to \$30. The maximum fee for collection of delinquent taxes and other charges collected subsequent to judgment will also increase, from \$25 to \$35.

## **REAL ESTATE TAX**

### **Buildings Substantially Completed or Fit for Use and Occupancy – Amended**

**Effective Date: July 1, 2003**

**Code Section Amended: § 58.1-3292.1**

House Bill 1673 (Chapter 6) and Senate Bill 1285 (Chapter 581) authorize any city or county adjacent to or any city surrounded by Fairfax County, upon adoption of an ordinance, to assess new buildings when they are substantially completed or fit for use and occupancy, regardless of the date of completion or fitness. For any assessment made after November 1 in any year, the affected jurisdictions are authorized to charge a penalty for late payment until the later of December 5 or thirty days following the date of billing.

Under current law, only Fairfax County has this authority. Other localities cannot assess real estate taxes on new buildings that are substantially completed after October 31 until January of the succeeding year.

### **Land Use Assessment Eligibility for Aquaculture and Specialty Crops - Amended**

**Effective Date: July 1, 2003**

**Code Section Amended: § 58.1-3233**

House Bill 2056 (Chapter 356) allows localities to set by ordinance a minimum acreage that may be less than five acres for land that is used for aquaculture or for raising specialty crops to be eligible for agricultural or horticultural land use assessment.

Under current law, real estate devoted to agricultural or horticultural use must consist of a minimum of five acres to be eligible for special land use assessment.

### **Property Condemnations; Reimbursement of Taxes Paid - Amended**

**Effective Date: July 1, 2003**

**Code Section Amended: § 15.2-1904**

Senate Bill 990 (Chapter 680) requires localities in condemnation proceedings to reimburse owners of real property or other persons legally obligated to pay the real property taxes, for the prorated portion of property taxes paid for that period after the date of title vesting or the effective date of possession, whichever is earlier.

### **Installment Agreements for Payment of Delinquent Taxes - Amended**

**Effective Date: July 1, 2003**

**Code Section Amended: § 58.1-3965**

Senate Bill 1183 (Chapter 168) eliminates the requirement for the recording of installment agreements between local officers and owners of real property for the payment of delinquent real estate taxes.

### **Sale of Property for Delinquent Taxes or Liens - Amended**

**Effective Date: July 1, 2003**

**Code Section Amended: § 58.1-3970.1**

House Bill 2277 (Chapter 16) and Senate Bill 735 (Chapter 156) allow a locality, in lieu of a public sale at auction, to petition the circuit court to appoint a special commissioner to execute the necessary deed to convey real estate to the locality if the delinquent tax alone on the real estate exceeds 25 percent of the assessed value of the real estate in any proceeding for the sale of real estate.

Under current law, real estate is not eligible to participate in this process unless the taxes, liens, penalty and accumulated interest exceed 50 percent of the assessed value of the parcel.

### **Classification of Real Property Improvements in Roanoke City - New**

**Effective Date: July 1, 2003**

**Code Section Amended: § 58.1-3221.1**

Senate Bill 1095 (Chapter 164) reclassifies improvements to real property located in the City of Roanoke as a separate class of real property. As a result, the City of Roanoke is authorized to impose a real property tax on the improvements at a tax rate that does not exceed the rate applicable to the land on which the improvements are made (see Section 2, Real Property Tax, 2003, on page 5 for more about this).

### **Assessment Appeals to Boards of Equalization and Circuit Court – Amended**

**Effective Date: July 1, 2003**

**Code Sections Amended: §§ 15.2-717, 58.1-3256, 58.1-3360, 58.1-3374, 58.1-3378, 58.1-3379, 58.1-3380, 58.1-3384, and 58.1-3984**

House Bill 2503 (Chapter 1036) permits taxpayers to make fair market value appeals to a board of equalization. For such appeals, this legislation provides a presumption that the assessment is correct and the taxpayer must produce substantial evidence that the assessment is erroneous and was not arrived at in accordance with generally accepted appraisal practice in order to receive relief from the board.

This legislation also limits board members to 9 years of consecutive service and requires 30 percent of the members of boards of equalization to have a real estate, legal or financial background with at least one such member sitting in all appeals involving business properties, unless waived by the taxpayer. Additionally, each member of a board of equalization is required to take continuing education instruction at least once in every 4 years of service.

Finally, this legislation provides a phased-in, 3-year statute of limitations for appealing real estate tax assessments to circuit courts in those localities that currently have a 1-year statute of limitations.

## **MISCELLANEOUS TAXES**

### **Admissions Tax**

#### **Lower Admissions Tax Rate for Private Venues – Amended**

**Effective Date: July 1, 2003**

**Code Section Amended: § 58.1-3840**

House Bill 2045 (Chapter 12) authorizes any city or town that imposes the local admissions tax to impose the tax at a lower rate on admissions paid for events held at privately-owned facilities than the rate imposed for events held at civic centers, stadiums and amphitheaters owned by the city or town.

Current law provides that cities and towns that have general taxing authority in their charters may impose an excise-tax on admissions. Current law does not refer to a rate differential between municipally owned and privately-owned facilities.

### **Transient Occupancy Tax**

#### **Cumberland, King George and Prince Edward Counties**

##### **Authorized to Impose Additional Tax - Amended**

**Effective Date: July 1, 2003**

**Code Section Amended: § 58.1-3819**

Senate Bill 722 (Chapter 939) authorizes the counties of Cumberland, King George, and Prince Edward to impose an additional transient occupancy tax at a rate not to exceed 5 percent. The revenues collected from that portion of the tax over the 2 percent rate must be spent for promoting tourism, travel or business that generates tourism in the county.

Currently, any county may impose a transient occupancy tax at a maximum rate of 2 percent, upon the adoption of an ordinance, on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms. King George County, currently imposes a transient occupancy tax at the rate of 2 percent. The counties of Cumberland and Prince Edward do not impose a transient occupancy tax.

### **Meals Tax**

#### **Increased Penalties for the Wrongful Use of Food and Beverage Tax and Meals Tax Revenue - Amended**

**Effective Date: July 1, 2003**

**Code Section Amended: § 58.1-3833**

House Bill 2089 (Chapter 792) provides that the wrongful and fraudulent use of funds collected by restaurants and other businesses from the local food and beverage tax and the local meals tax constitutes embezzlement pursuant to Va. Code § 18.2-111. This statute deems embezzlement to be larceny and is punishable in accordance with the larceny statute, Va. Code § 18.2-95.

Under current law, all food and beverage tax collections and all meals tax collections are deemed held in trust for the county, city or town imposing the applicable tax. Under the general local tax enforcement provisions, any person who willfully fails to collect or truthfully account for and pay over the local food and beverage tax (and other local taxes held in trust) is guilty of a Class 1 misdemeanor.

### **Consumer Utility Tax**

#### **Imposition of Telecommunications Consumer Utility Tax in Select Towns - Amended**

**Effective Date: July 1, 2003**

**Code Section Amended: § 58.1-3812**

House Bill 1558 (Chapter 179) authorizes the towns of Gordonsville, Colonial Beach, and Montross to impose a consumer utility tax on telegraph and telephone companies. This bill also provides that at such time as the ordinance is enacted by Gordonsville, Orange County may no longer impose the consumer utility tax within the town limits of Gordonsville. Likewise, at such time as the ordinance is enacted by Colonial Beach or Montross, Westmoreland County may no longer impose the tax within the limits of the town enacting the ordinance.

### **Taxation of Bundled Transactions - Amended**

**Effective Date: July 1, 2003**

**Code Sections Amended: §§ 56-484.12 and 58.1-3812**

Senate Bill 858 (Chapter 160) provides that communications services that are not subject to the local consumer utility taxes on telecommunications services will continue to be nontaxable when bundled with taxable communications services when the provider can identify the portion of the charge attributable to the nontaxable services from its books and records. This legislation also provides that if communications services subject to the consumer utility taxes on telecommunications services are taxable at different rates, the highest rate will not apply to the entire bundle of communications services if the provider can identify the portion of the charge attributable to the services subject to a lower rate from its books and records.

Under current law, when a provider bundles taxable and nontaxable charges for mobile telecommunications services, the charges for the nontaxable services continue to be nontaxable when the provider can identify the nontaxable portion from its books and records.

## **PERSONAL PROPERTY TAX**

### **Property Tax Exemptions Approved by Localities – Amended**

**Effective Date: January 1, 2003**

**Code Section Amended: § 58.1-3651**

**Code Sections Repealed: §§ 30-19.04 and 30-19.1:2**

House Bill 1750 (Chapter 1032) establishes the process localities must follow when exempting from real or personal property taxes property that is owned by nonprofit organizations and used for religious, charitable, patriotic, benevolent, cultural or public park or playground purposes. This legislation also requires local governing bodies to consider the same issues as the General Assembly was required to consider when determining whether to pass a resolution supporting an exemption request. Further, this legislation clarifies that exemptions granted by the General Assembly prior to January 1, 2003 remain in effect as long as the ownership and use of the property do not change.

### **Situs for Assessment of Motor Vehicles - Amended**

**Effective Date: July 1, 2003**

**Code Section Amended: § 58.1-3511**

House Bill 2323 (Chapter 34) and Senate Bill 1033 (Chapter 43) provide that the situs for business vehicles with a weight of 10,000 pounds or less registered in Virginia and used in a

business shall be the jurisdiction in which the owner of such business: (1) is required to file a tangible personal property tax return for any vehicle used in the business, and (2) has a definite place of business from which the use of the business vehicle is directed or controlled. In addition, the owner must have sufficient evidence that he has paid the personal property tax to such jurisdiction.

Current law provides that for purposes of the tangible personal property tax, vehicles shall be assessed by the jurisdiction in which they are normally garaged, docked or parked. It makes no distinction between business vehicles and personal vehicles.

### **Pollution Control Equipment Definition Expanded - Amended**

**Effective Date: July 1, 2003**

**Code Sections Amended: §§ 58.1-609.3 and 58.1-3660**

House Bill 2726 (Chapter 859) adds any equipment used to grind, chip, or mulch trees, tree stumps, underbrush and other vegetative cover for reuse as mulch, compost or fuel to the definition of certified pollution control equipment and facilities for property tax classification purposes. The governing body of any county, city or town may, by ordinance, exempt or partially exempt such property from local taxation.

