

Section 1

Summary of Legislative Changes in Local Taxation, 2004

This section summarizes the major changes in the *Code of Virginia* enacted by the 2004 session of the Virginia General Assembly for those taxes covered in this publication. The summary is taken from the Virginia Department of Taxation's *2004 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 *2004 Legislative Summary* can be found on the web at <www.tax.virginia.gov/Web_PDFs/2004LegislativeSummary.pdf>.

Additional information can be found in the Virginia Association of Counties' *2004 Summary of State Legislation Affecting County Governments*, found on the web at <www.vaco.org/PUBLICATIONS/LegislativeProgram.php>, and the Virginia Municipal League's *2004 Legislative Report* downloadable at <www.vml.org/Legact.html>.

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

Offers in Compromise Acceptance by Local Officials - Amended

Effective Date: July 1, 2004

Code Section Added: § 58.1-3994

House Bill 293 (Chapter 526) authorizes the commissioner of the revenue to compromise and settle any assessment of business, professional and occupational license (BPOL) taxes and business tangible personal property, merchants' capital, and machinery and tools taxes (Local Business Taxes) prior to the exhaustion of all administrative or judicial reviews upon a determination that there is substantial doubt as to the taxpayer's liability. This bill also authorizes the treasurer to compromise and settle the amount of BPOL and Local Business Taxes due and payable upon a determination that collection of the entire amount due is in substantial doubt, and the best interests of the locality will be served by such compromise.

Local Taxes Eligible for Appeal to the State Tax Commissioner - Expanded

Effective Date: Tax years beginning on or after January 1, 2005

Code Sections Amended: §§ 58.1-3103 and 58.1-3983.1

House Bill 464 (Chapter 534) expands the Department of Taxation's authority to hear local tax appeals to include assessments of the tangible personal property tax on airplanes, boats, campers, recreational vehicles and trailers (the "local mobile property tax"). The Department would not be required to make a determination regarding the valuation or method of valuation for local mobile property tax assessments. The determination of value and valuation methodology would remain subject to local determinations.

Localities would be prohibited from engaging in collection activity when an appeal of a local mobile property tax assessment is made to the commissioner of the revenue or the Department of Taxation. Collection activity would be allowed if the treasurer determines that collection would be jeopardized by delay or is advised that the taxpayer has not responded to a request for relevant information after a reasonable time.

This bill also requires localities to provide taxpayers with detailed information at the time local mobile property tax assessments are issued with respect to how the assessment was determined and a description of the taxpayer's appeal rights.

Written Opinions by State Tax Commissioner Before Appeal - New

Effective Date: July 1, 2004

Code Section Amended: § 58.1-3983.1

House Bill 295 (Chapter 527) authorizes the Tax Commissioner to issue written advisory opinions in specific cases, when formally requested by taxpayers and local tax officials, regarding the business tangible personal property tax, the machinery and tools tax and the merchants' capital tax.

**Virginia Regional Industrial Facility Authority:
Appropriation of Taxes Generated at Facilities; Expands
Eligible Planning Districts - Amended**

Effective Date: July 1, 2004

Code Sections Amended: §§ 15.2-6400 and 15.2-6406

House Bill 240 (Chapter 42), House Bill 1393 (Chapter 640) and Senate Bill 546 (Chapter 603) grant localities that contain a facility established under the Virginia Regional Industrial Facilities Act the authority to direct all local tax revenues generated by the facility back to the Regional Industrial Facilities Authority. All local tax revenues received by the Authority may be used for payment of debt service on bonds and other obligations of the Authority with respect to the facility. This bill also expands this authority to include Planning Districts 1 and 2.

**Property of Nonprofit Groups Exempt from Taxation -
Amended**

Effective Date: January 1, 2005

Code Sections Amended: §§ 58.1-3400 and 58.1-3651

House Bill 1076 (Chapter 557) clarifies the process localities must follow in determining whether real or personal property of certain charitable and other related organizations may be exempted from local property taxes. It creates procedures to be used in exempting such property by designation and in exempting property by classification.

Fee for Electronic Access to Public Records - New

Effective Date: July 1, 2004

Code Section Amended: § 58.1-3172.1

House Bill 465 (Chapter 223) allows local treasurers who provide electronic access to public records to charge a fee to cover the operational expenses of providing the electronic access. The fee would be assessed based upon a subscription, not to exceed \$100 per month, or a cost per page, not to exceed \$1 for the first page and 25 cents for each additional page.

TANGIBLE PERSONAL PROPERTY TAX

**Personal Property Tax Relief (Car Tax) Program -
Capped**

Effective Date: Tax years beginning in 2006 and each tax year thereafter.

Code Sections Amended: §§ 3.1-1111, 30-133, 58.1-3506, 58.1-3506.1, 58.1-3523, 58.1-3524, and 58.1-3912.

Code Sections Repealed: §§ 58.1-3525 through 58.1-3533, 58.1-3536, and 58.1-3916.01.

Senate Bill 5005 (Chapter 1, 2004 Special Session I) changes the personal property tax relief program for motor vehicles. Beginning in 2006, the state will distribute \$950 million annually to localities as reimbursement for the personal property tax relief provided by each locality. Each locality's share of the state reimbursement will be based upon its share of the state reimbursements for tax year 2005, and will not change after 2006. Each locality receiving a state reimbursement must reduce its tax rate on the first \$20,000 value of qualifying motor vehicles so that the tax revenue plus the state reimbursement will approximately equal the revenue that would have been received without a rate reduction.

Under current law, the state reimburses localities for 100 percent of the tax imposed on qualifying motor vehicles valued at less than \$1,000, and 70 percent of the amount of tax imposed on the first \$20,000 value of other qualifying motor vehicles.

**Revised Reimbursement Rules for the Personal Property
Tax Relief Act of 1998 – Amended**

Effective Date: July 1, 2004

Code Section Amended: § 58.1-3528

House Bill 926 (Chapter 547) authorizes treasurers to apply to the Commonwealth for payment of the Personal Property Tax Relief Act of 1998 (PPTRA) reimbursement amount regarding a qualifying vehicle even though the vehicle owner has not paid the entire unreimbursed portion of the personal property tax levy, if the taxpayer has been billed and has made a partial payment that is no more than \$5 less than the actual amount due; the treasurer has determined that there is no reason to believe the erroneous payment was made in bad faith; and the treasurer has elected not to pursue collection of the balance.

Increased Number of Motor Vehicles Eligible for Special Classification - Amended

Effective Date: July 1, 2004

Code Section Amended: § 58.1-3506

For households containing both a member and an auxiliary member of a volunteer rescue squad or fire department, House Bill 143 (Chapter 4) and Senate Bill 349 (Chapter 591) increase from one to two the number of motor vehicles that are eligible for inclusion in the special classifications of tangible personal property for motor vehicles owned or leased by members and auxiliary members of volunteer rescue squads and fire departments that localities may tax at lower rates than applicable to the general class of tangible personal property in the locality.

Exemption for Trailers Used for Farm Animals and Farm Products - Amended

Effective Date: July 1, 2004

Code Sections Amended: §§ 58.1-3505 and 58.1-3506

House Bill 1030 (Chapter 556) adds privately owned trailers that are primarily used by farmers in their farming operations for the transportation of farm animals or other farm products to the list of farm property that a locality may, by ordinance, exempt or tax at a rate different from tangible personal property taxation. In addition, under the classification for tangible personal property that may be taxed only at a different rate, this bill clarifies that the definition of privately owned trailers designed and used for the transportation of horses does not include trailers used by farmers in their farming operations.

Taxation of Generating Equipment Owned by Certain Electric Suppliers - Amended

Effective Date: July 1, 2004

Code Section Amended: § 58.1-2606

Senate Bill 366 (Chapter 504) clarifies that generating equipment owned by electric suppliers that are not public service companies (i.e., independent power producers and cogenerators) is subject to local property taxation at a special locally determined rate that cannot exceed the real estate tax rate imposed by the locality. Generating equipment owned by public service companies will continue to be taxed at the local real estate tax rate.

Annual Report Filing by Utilities - Amended

Effective Date: Tax years beginning on or after January 1, 2004

Code Section Amended: § 58.1-2628

Senate Bill 120 (Chapter 661) provides that the only property leased by suppliers of electricity that is reported to the State Corporation Commission, rather than the locality in which situated, are assets directly associated with production facilities, not including real estate or vehicles.

REAL ESTATE TAX

Exemptions for Elderly or Disabled Persons in the City of Charlottesville and the County of Goochland- Amended

Effective Date: July 1, 2004

Code Section Amended: § 58.1-3211

House Bill 154 (Chapter 5) adds the City of Charlottesville while House Bill 403 (Chapter 6) and Senate Bill 122 (Chapter 494) add the County of Goochland to the cities and counties authorized to observe a \$52,000 limit on total income and a \$195,000 limit on combined net financial worth when qualifying for the real estate tax exemption and deferral program for the elderly or disabled.

Exemptions for Elderly or Disabled Persons in the Northern Virginia Planning District - Amended

Effective Date: July 1, 2004

Code Section Amended: § 58.1-3211

Senate Bill 361 (Chapter 503) authorizes localities in the Northern Virginia Planning District to increase from \$62,000 to \$72,000 the maximum income limitation for purposes of obtaining an exemption or deferral of real property taxes for qualified elderly or permanently disabled persons. These same localities would also be authorized to increase the maximum combined financial worth limitation from \$240,000 to \$340,000.

Alternative Payment Schedules for the Elderly and Handicapped in Prince William County - New

Effective Date: July 1, 2004

Code Section Added: § 58.1-3916.02

House Bill 928 (Chapter 548) authorizes Prince William County to provide by ordinance alternative due dates for the payment of property taxes by taxpayers aged 65 and older and for permanently or totally disabled taxpayers. This bill also authorizes Prince William County to provide by ordinance for these taxpayers to make installment payments of real property taxes without penalty and interest.

Increase of Statewide Income and Net Worth Limits for Elderly or Disabled to Qualify for Exemption or Deferral of Real Estate Tax - Amended

Effective Date: July 1, 2004

Code Section Amended: § 58.1-3211

House Bill 94 (Chapter 77) modifies the income and net worth limitations for determining whether persons sixty-five years or older, or those who are permanently and totally disabled, qualify for the exemption or deferral of local real property taxes. This bill increases the net worth limitation for determining whether these persons qualify from \$100,000 to \$200,000 and increases the amount of income that may be excluded in determining the total combined income limitation from \$7,500 to \$10,000.

In addition, this bill increases the amount of income of a non spouse relative living in the dwelling that may be excluded in determining the total combined income limitation from \$8,500 to \$10,000. Finally, this bill increases the amount of assets from \$5,000 to \$10,000 that a taxpayer can transfer to a relative who lives with and provides care to the taxpayer without the relative's income being counted towards the taxpayer's income limit.

Increase of Statewide Acreage Excluded when Calculating Net Worth of Elderly or Disabled – Amended

Effective Date: July 1, 2004

Code Section Amended: § 58.1-3211

House Bill 97 (Chapter 78) increases the net worth limitation when determining whether taxpayers aged sixty-five years or older, or who are permanently and totally disabled, qualify for the exemption or deferral of local real property taxes by increasing the number of acres excluded from the net worth calculation from 1 acre to 10 acres.

Collection Proceedings For Delinquent Real Estate Taxes - New

Effective Date: July 1, 2004

Code Section Amended: § 58.1-3967

House Bill 1453 (Chapter 645) declares that anyone who purchases tax-delinquent real estate after judicial sale proceedings have begun, and after a Lis Pendens (notice of pending suit) has been recorded, is not a necessary party to the lawsuit to sell the property for delinquent taxes. The purchaser must intervene in the case and file a claim with the court. Failure of such a party to file will bar the claim.

Administrative Rule Changes Regarding Sale of Property for Delinquent Taxes - Amended

Effective Date: July 1, 2004

Code Sections Amended: §§ 15.2-906, 15.2-1115, 58.1-3965 and 58.1-3970.1

House Bill 1456 (Chapter 968) facilitates the ability of localities to abate nuisances and dispose of tax delinquent properties, including (i) expanding those instances in which an unpaid charge may constitute a lien on property; (ii) decreasing the time-period that a locality must wait prior to taking action to sell certain tax delinquent properties; (iii) expanding the ability of localities to declare a property as abandoned; (iv) expanding instances in which a locality may petition for the conveyance of a deed in lieu of a sale at public auction for certain parcels; and (v) making corporate officers personally liable for taxes and nuisance abatement costs that remain unpaid after a judicial sale.

Establishing a Department of Real Estate Assessment in Powhatan County - New

Effective Date: July 1, 2004

Code Section Amended: § 58.1-3274

House Bill 1461 (Chapter 576) authorizes the County of Powhatan to establish, by resolution, its own department of real estate assessment. It also authorizes the county to enter into an agreement with any contiguous county or city for the establishment of a joint department of real estate assessment.

Nonjudicial Sale of Tax Delinquent Property by Local Treasurers - Amended

Effective Date: July 1, 2004

Code Section Added: § 58.1-3975

House Bill 925 (Chapter 100) permits the local treasurers to sell tax delinquent unimproved real estate in a nonjudicial sale if it is assessed at less than \$10,000, and it is less than 4,000 square feet or it is not a buildable lot.

MISCELLANEOUS TAXES

Consumer Utility Tax

Exemption for Churches or Religious Bodies - New

Effective Date: July 1, 2004

Code Section Amended: §§ 58.1-3814 and 58.1-3816.2

House Bill 743 (Chapter 8) and Senate Bill 71 (Chapter 159) allow any county, city or town to exempt from the local consumer utility tax any church or religious body, or the residences of their ministries.

Imposition of Telecommunications Consumer Utility Tax in the Towns of Herndon and Vienna - Amended

Effective Date: July 1, 2004

Code Section Amended: § 58.1-3812

House Bill 372 (Chapter 43) and Senate Bill 316 (Chapter 172) authorize the Towns of Herndon and Vienna to impose a consumer utility tax on telegraph and telephone companies by adopting an ordinance on or after July 1, 2004. This bill also provides that at such time as an ordinance is enacted by either of the towns, Fairfax County may no longer impose a consumer utility tax on telegraph and telephone companies within the limits of the town imposing the ordinance while the town ordinance remains in effect.

Imposition of Telecommunications Consumer Utility Tax in the Towns of Vienna and Clifton - Amended

Effective Date: July 1, 2004

Code Section Amended: § 58.1-3812

Senate Bill 627 (Chapter 516) authorizes the Towns of Vienna and Clifton to impose a consumer utility tax on telegraph and telephone companies by adopting an ordinance on or after July 1, 2004. The bill also provides that at such time as an ordinance is enacted by either of the towns, Fairfax County may no longer impose a consumer utility tax on telegraph and telephone companies within the limits of the town while the town ordinance is in effect.

Imposition of Telecommunications Consumer Utility Tax in the Town of Iron Gate - Amended

Effective Date: July 1, 2004

Code Section Amended: § 58.1-3812

Senate Bill 14 (Chapter 489) authorizes the Town of Iron Gate to impose a consumer utility tax on telegraph and telephone companies by adopting an ordinance on or after July 1, 2004. The bill also provides that when this ordinance is enacted by the Town of Iron Gate, Alleghany County may no longer impose a consumer utility tax on telegraph and telephone companies within the town limits of Iron Gate, for as long as the ordinance is in effect.

Transient Occupancy Tax

Floyd County Allowed to Impose Additional Tax – Amended

Effective Date: July 1, 2004

Code Section Amended: § 58.1-3819

House Bill 739 (Chapter 7) authorizes Floyd County to impose the transient occupancy tax at a rate not to exceed 5 percent. Any revenue generated over 2 percent must be spent for promoting tourism, travel or business that generate tourism in the county. Floyd County currently does not impose any transient occupancy tax.

Chesterfield, Hanover, and Henrico Counties Authorized to Impose Additional Tax – Amended

Effective Date: July 1, 2004

Code Section Amended: § 58.1-3823

House Bill 741 (Chapter 50) authorizes Chesterfield, Hanover, and Henrico counties to impose an additional transient occupancy tax not to exceed 1 percent. The revenues collected from the additional tax shall be designated and spent for the development and improvement of the Virginia Performing Arts Foundation's facilities in Richmond, for promoting the use of the Richmond Centre and for promoting tourism, travel or business that generates tourism and travel in the Richmond metropolitan area. These same localities are already

authorized to impose an additional transient occupancy tax of up to 6 percent to promote other facilities and tourism in the Richmond area.

Fairfax County Authorized to Impose Additional Tax – Amended

Effective Date: July 1, 2004

Code Section Added: § 58.1-3824

House Bill 1001 (Chapter 9) authorizes Fairfax County to impose an additional 2 percent transient occupancy tax, provided no more than 75 percent of the revenue is appropriated by Fairfax County to be used in the county to promote tourism, and the remainder of the revenue is appropriated to a nonprofit convention and visitor’s bureau located in the county. Fairfax County currently imposes a 2 percent transient occupancy tax.

Rockbridge County and the Cities of Lexington and Buena Vista Authorized to Impose Additional Tax – Amended

Effective Date: July 1, 2004

Code Section Added: § 58.1-3824

Senate Bill 517 (Chapter 598) authorizes Rockbridge County and the cities of Lexington and Buena Vista to impose an additional 2 percent transient occupancy tax. Revenues generated from the imposition of this tax will be used to pay down the principal and interest on promissory notes between the Virginia Horse Center Foundation or the Virginia Equine Center Foundation and the Rockbridge Industrial Development Authority executed prior to January 1, 2004.

James City and York Counties Authorized to Impose an Additional Tax - Amended

Effective Date: July 1, 2004

Code Section Amended: § 58.1-3823

Senate Bill 652 (Chapter 828) authorizes the counties of James City and York to impose an additional transient occupancy tax not to exceed \$2 per night for the occupancy of any

overnight guest room. The revenues generated from this tax must be spent for advertising the Greater Williamsburg area as an overnight tourism destination by the members of the Williamsburg Area Destination Marketing Committee. This bill also creates guidelines for the establishment of the Williamsburg Area Destination Marketing Committee.

Localities Identified by Name Rather than Population Within Legislation - New

Effective Date: July 1, 2004

Code Sections Amended: §§ 58.1-3819, 58.1-3822, 58.1-3823, 58.1-3833 and 58.1-3842

Senate Bill 684 (Chapter 610) changes the system for referencing the localities entitled to impose the local transient occupancy tax and the local meals taxes by naming the affected localities, instead of using population classifications.

Coal and Gas Road Improvement Tax

Direct Revenue Distribution to Local Public Service Authority - New

Effective Date: July 1, 2004

Code Section Amended: §§ 58.1-3713

House Bill 1426 (Chapter 871) and Senate Bill 642 (Chapter 893) require that any revenues generated by the coal and gas road improvement tax and designated for water systems and/or sewer systems to be distributed directly to the local public service authority rather than the local governing body.

Appropriation Flexibility and Direct Revenue Distribution to Local Public Service Authority - New

Effective Date: July 1, 2004

Code Sections Amended: § 58.1-3713.01

Senate Bill 642 (Chapter 893) authorizes localities that comprise the Virginia Coalfield Economic Development Authority to use a portion of the local coal and gas road improvement tax that is currently allocated for construction of new or enhanced water systems and lines for the construction of new or enhanced sewer lines as well.

