

Section 1

Summary of Legislative Changes in Local Taxation, 2007

This section summarizes the major changes in the *Code of Virginia* enacted by the 2007 session of the Virginia General Assembly for those taxes covered in this publication. The summary is based on the Virginia Department of Taxation's 2007 *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 2007 *Legislative Summary* can be found on the web at www.tax.virginia.gov/Web_PDFs/2007LegislativeSummary.pdf (8/10/2007).¹

Additional information can be found in the Virginia Association of Counties' 2007 *Regular Session Legislative Summary*, located on the web at www.vaco.org/sitefiles/pdfs/legislative/legsummary07.pdf (8/10/2007), and the Virginia Municipal League's 2007 *Legislative Report*, downloadable at www.vml.org/Legact.html (8/10/2007).

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.

TANGIBLE PERSONAL PROPERTY TAX

Personal Property Tax Relief

Effective Date: July 1, 2007

Code Section Amended: § 58.1-3523

House Bill 1880 (Chapter 314) expands the Personal Property Tax Relief Act definition of "qualifying vehicle" to include motor vehicles that are held in a private trust for nonbusiness purposes by an individual beneficiary. Prior to this bill, qualifying vehicles were defined to include any passenger car, motorcycle, and pickup or panel truck that is determined to be (i) privately owned or (ii) leased pursuant to a contract requiring the lessee to pay the tangible personal property tax on such vehicle. All-terrain vehicles and off-road motorcycles titled with the Department of Motor Vehicles are not qualifying vehicles.

Separate Classification For Certain Aircraft

Effective Date: July 1, 2007

Code Sections Amended: §§ 58.1-3506 and 58.1-3916

House Bill 2013 (Chapter 88) and Senate Bill 1171 (Chapter 609) create a separate classification for local personal property tax purposes for aircraft that are (i) considered Warbirds, manufactured and intended for military use,

excluding those manufactured after 1954, and (ii) used only for (a) exhibit or display to the general public (including such flights as are necessary for testing, maintaining, or preparing such aircraft for safe operation), or (b) air show and flight demonstrations (including such flights as are necessary for testing, maintaining, or preparing such aircraft for safe operation). Aircraft used for commercial purposes, including transportation and other services for a fee, are not included in this classification.

Local Tax and License Fees on Motor Vehicles, Trailers and Semitrailers; Exemption for Certain Law Enforcement Officials

Effective Date: July 1, 2007

Code Section Amended: § 46.2-752

House Bill 2362 (Chapter 865) allows localities to exempt vehicles owned or leased by deputy sheriffs, police officers, officers of the State Police, salaried firefighters, or salaried emergency medical technicians from the local tax and license fee for one vehicle.

Separate Classification for Wireless Broadband

Effective Date: July 1, 2007

Code Section Amended: § 58.1-3506

House Bill 2385 (Chapter 322) creates a separate classification for local property tax purposes for any tangible personal property owned and operated by a service provider who is not a Commercial Mobile Radio Service (cellular or other mobile telecommunications service) provider and who is not licensed by the FCC that is used to provide wireless broadband Internet service. "Wireless broadband Internet service" is defined as a service that enables customers to access, through a wireless connection at an upload or download bit rate of more than one megabyte per second, Internet service, as part of a package of services sold to customers.

Duties of Treasurers

Effective Date: January 1, 2007

Code Section Amended: § 58.1-3921

House Bill 2390 (Chapter 867) extends the lists of uncollected taxes which the treasurer must make to include the uncollected balances of previously billed tangible 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 so transferring, of the unpaid taxes.

¹ Whenever a website is shown in this study, we include in parentheses the last date that we accessed the site.

Personal Property Tax Relief: Qualifying Vehicles

Effective Date: *July 1, 2007*

Code Section Amended: § 58.1-3523

House Bill 2975 (Chapter 815) requires commissioners of revenue to rely upon the registration of the vehicle and certificate of title by the Department of Motor Vehicles (DMV) in determining whether privately owned or leased vehicles qualify for tax relief under the Personal Property Tax Relief Act (PPTRA), unless the commissioner has information that DMV's registration information is incorrect or incomplete.

REAL ESTATE TAX

Classification of Energy Efficient Buildings

Effective Date: *July 1, 2007*

Code Section Added: § 58.1-3221.2

House Bill 2618 (Chapter 328) and Senate Bill 1051 (Chapter 354) create a separate classification of real property for certain energy efficient buildings. Localities are authorized to assess the Real Property Tax on energy efficient buildings at a lower tax rate than that imposed on the general class of real property. An energy efficient building is defined as any building that exceeds the energy efficiency standards prescribed in the Virginia Uniform Statewide Building Code by 30 percent. Any qualified licensed engineer or contractor, not related to the taxpayer, is authorized to determine whether the building qualifies to be certified as an energy efficient building. The licensed engineer or contractor will also certify to the taxpayer that he or she has the qualifications to provide the certification. The land on which energy efficient buildings are located is not part of this separate classification.

Exemptions for Elderly or Disabled

Effective Date: *July 1, 2007*

Code Section Amended: § 58.1-3211

House Bill 1744 (Chapter 60) increase from \$72,000 to \$75,000 the maximum income limit a locality in Northern Virginia may impose in providing real estate tax exemptions or deferrals to the elderly or disabled. Previously, the maximum income limit was \$72,000. The Northern Virginia localities affected by this bill are the counties of: Arlington, Clarke, Fairfax, Fauquier, Loudon, Prince William and Stafford; the cities of Fairfax, Falls Church, Manassas, Manassas Park, and Alexandria, and the towns of Dumfries, Herndon, Leesburg, Purcellville, and Vienna.

Real Estate Tax; Elderly and Permanently and Totally Disabled

Effective Date: *July 1, 2007*

Code Section Amended: § 58.1-3211

Senate Bill 788 (Chapter 587) increases from \$52,000 to \$62,000 the maximum income limit localities in Central and Southeastern Virginia may impose in providing real estate tax exemptions or deferrals to the elderly or disabled. Under prior law certain localities in Central and Southeastern

Virginia were permitted to extend either the income limitations from \$50,000 to \$52,000. The eligible localities include the counties of Chesterfield, Goochland and Henrico; and the cities of Charlottesville, Chesapeake, Norfolk, Portsmouth, Richmond, Suffolk and Virginia Beach.

Deferral of Tax for Certain Elderly and Disabled

Effective Date: *July 1, 2007*

Code Sections Amended: §§ 58.1-3210, 58.1-3213 and 58.1-3215

Code Section Added: § 58.1-3211.1

Senate Bill 1265 (Chapter 357) authorizes local governments to extend real estate tax relief for the elderly and disabled to dwellings jointly held between individuals, not all of whom are at least age 65 or permanently and totally disabled, provided their combined net financial worth does not exceed certain statutory limits. To qualify, the dwelling must be the sole dwelling of all joint owners. Under the provisions of this bill, the tax relief is prorated based on the percentage of ownership interest in the dwelling held by all joint owners who satisfy the age or disability requirements. This proration does not apply to property held jointly by husband and wife. Under prior law, the only jointly owned dwellings that qualify for real estate tax relief for the elderly and disabled are dwellings jointly owned by a husband and wife. The tax relief is not prorated in such situations.

Notice of Change in Assessment

Effective Date: *July 1, 2007*

Code Section Amended: § 58.1-3330

House Bill 3093 (Chapter 344) and Senate Bill 848 (Chapter 353) provide that if the change in the local Real Property Tax assessment of property is due to the construction or addition of new improvements to the property, the notice of change in assessment for the property need not set out the following information otherwise required when the assessment is changed: 1) the tax rate; 2) the total amount of the new tax levy; 3) the percentage change in the new tax levy from the immediately prior one; 4) the time and place of the next meeting of the local governing body at which public testimony will be accepted on any real estate tax rate changes; or 5) information on when the date of the meeting will be set and where it will be publicized. Prior law required that whenever there is a reassessment of real estate or a change in the assessed value of real estate, a locality must provide notice by mail directly to each property owner whose assessment has been changed.

Constitutional Amendment; Homestead Exemption

Effective Date: *To be determined*

Code Section Amended: *Article X § 6 of the Virginia Constitution*

Senate Joint Resolution 398 (Chapter 843) authorizes the General Assembly to enact legislation that will allow localities, by ordinance, to exempt from real property taxes, or defer real property taxes on, up to 20 percent of the value of residential or farm property that is the owner-occupant's primary dwelling and lived in continuously. This is the first

of two resolutions required for this amendment. If a second resolution is passed, the amendment will be submitted to a referendum.

Transportation Funding

The 2007 transportation funding bill included provisions that permitted Northern Virginia and Hampton Roads localities to tax real estate from commercial real property at a different rate than residential property. Details are included in the section, *Transportation Funding*, on page four.

BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE TAX

Motor Fuels Tax Exemption

Effective Date: *January 1, 2007*

Code Section Amended: § 58.1-3732

House Bill 1695 (Chapter 85) and Senate Bill 772 (Chapter 834) amend the business, professional, and occupational license (BPOL) tax to clarify that taxpayers may continue to exclude amounts received for any federal or state excise taxes on motor fuels from the amount to be taxed. For many years retail service stations collected fuel taxes at the pump and paid them to the appropriate government. In 2001 the point of imposition was moved to the distributor, but the change was not intended to affect the overall tax burden of retail service stations. The retailers continued to deduct fuel taxes from their gross receipts for BPOL tax purposes even though they no longer paid fuel taxes directly to the appropriate government.

MACHINERY AND TOOLS TAX

Uniform Statewide Statutory Classification for Idle Machinery

Effective Date: *January 1, 2007*

Code Section Amended: § 58.1-3507

House Bill 2181 (Chapter 191) and Senate Bill 1151 (Chapter 159) provide that when valuing machinery and tools for purposes of the local machinery and tools tax, the locality must, upon written request of the taxpayer, consider any bona fide, independent appraisal submitted by the taxpayer. These bills also codify the Department of Taxation's (TAX) administrative rulings holding that idle machinery and tools are to be classified as intangible personal property not subject to local taxation. The bills codify the definition of idle machinery and tools established by the Tax Commissioner in 1950 that provides that machinery and tools are idled if they have been discontinued in use continuously for at least one year prior to any tax day and there is no reasonable prospect that such machinery and tools will be returned to use during the tax year. These bills also provide that machinery and tools will be deemed idle on and after January 1, 2007, if they have been specifically identified in writing by the taxpayer on or before the preceding April 1 as machinery and tools that the taxpayer intends to withdraw from service not later than the next tax day and as to which there is no reasonable prospect that such machinery and tools will be returned to use during the tax year. The alternate definition is intended to provide a clear-cut procedure for machinery and tools

to be classified as idle. The nine months notice is intended to give localities sufficient time to adjust their budgets to compensate for revenue loss.

The bills require taxpayers to notify the locality in writing on or before the next return due date without extension in the event that any machinery and tools defined as idle under this definition are returned to use. Such machinery and tools are subject to tax in the same manner as if they had been in use on tax day of the year in which such return to use occurs. Interest applies, but if the taxpayer provides timely written notice of return to use, no penalty is levied.

The bills require TAX to issue guidelines for the use of local governments in applying the provisions related to idle machinery and tools on or before January 1, 2008. In preparing such guidelines, TAX is not subject to the provisions of the Administrative Process Act for guidelines promulgated on or before January 1, 2008, but is required to cooperate with and seek the counsel of local officials and interested groups. After January 1, 2008, the guidelines will be accorded the weight of a regulation under § 58.1-205 and any amendments to the guidelines would be subject to the Administrative Process Act.

MISCELLANEOUS TAXES

Tax Local Coal and Gas Road Improvement Tax; Extension of Sunset Provision

Effective Date: *July 1, 2007*

Code Section Amended: § 58.1-3713

House Bill 1628 (Chapter 57) and Senate Bill 734 (Chapter 586) extend the sunset date from December 31, 2007, to December 31, 2012, for the local coal and gas road improvement tax. This tax is levied on businesses engaged in severing coal and gas from the earth at a rate not to exceed one percent of the gross receipts from the sale of such coal or gas. The revenues from this tax are used to improve public roadways and other local infrastructure in the locality.

TRANSIENT OCCUPANCY TAX

Maximum Amount Northampton County May Charge

Effective Date: *July 1, 2007*

Code Section Amended: § 58.1-3819

House Bill 1714 (Chapter 86) and Senate Bill 904 (Chapter 596) allow the transient occupancy tax in Northampton County to be increased to five percent. The three percent additional revenue collected from Northampton County must be designated and spent for promoting tourism, marketing of tourism or initiatives that attract travelers to the county and generate tourism revenues in Northampton County.

Maximum Amount Amherst County May Charge

Effective Date: *July 1, 2007*

Code Section Added: § 58.1-3819

Senate Bill 811 (Chapter 767) allows the transient occupancy tax in Amherst County to be increased to five percent. The three percent additional revenue collected from Amherst County must be designated and spent for promoting tourism, marketing of tourism or initiatives that attract travelers to the

county and generate tourism revenues in Amherst County.

TRANSPORTATION FUNDING

Effective Date: *July 1, 2007*

Code Sections Amended: §§ 2.2-1514, 10.1-1188, 15.2-2317-15.2-2327, 15.2-2403, 15.2-4839, 15.2-4840, 33.1-3, 33.1-19.1, 33.1-23.03, 33.1-23.03:8, 33.1-223.2:12, 33.1-268, 33.1-269, 33.1-277, 46.2-694, 46.2-694.1, 46.2-697, 46.2-1135, 58.1-605, 58.1-606, 58.1-811, 58.1-2217, 58.1-2249, 58.1-2289, 58.1-2403, 58.1-2425, 58.1-2701 and 58.1-2706

Code Section Added: §§ 15.2-2223.1, 15.2-2329, 15.2-2329, 15.2-2403.1, 15.2-4838.1, 30-278, 30-282, 33.1-23.4:01, 33.1-391.6, 33.1-391.15, 46.2-206.1, 46.2-702.1, 46.2-755.1, 46.2-755.2, 46.2-1167.1, 58.1-625.1, 58.1-802.1, 58.1-815.4, 58.1-1724.2, 58.1-1724.7, 58.1-2402.1, 58.1-2531, 58.1-3221.2 and 58.1-3825.1

House Bill 3202 (Chapter 896) provides additional funding for transportation projects through the imposition of taxes, fees and other revenue sources. This bill authorizes any locality to impose additional impact fees if it has established an urban transportation service district and adopted an impact fee ordinance pursuant to this bill by December 31, 2008. The revenues generated by this bill would not be used to reduce the share of local, federal, or state revenues otherwise available to the localities. This bill also i) increases fees for motor vehicle registration, ii) increases fees for violations of vehicle weight limits, and iii) imposes civil remedial fees on drivers convicted of certain driving and vehicle related infractions and on drivers with eight or more driver demerit points. This bill also raises the motor fuels tax rate on diesel fuel from 16 to 17.5 cents per gallon, and increases the road tax on motor carriers from 19.5 to 21 cents per gallon. The revenues collected from these increases will be dedicated to the Highway Maintenance and Operation Fund. This bill also dedicates one-third of all revenues collected from the license tax on insurance companies to the Priority Transportation Fund.

The bill authorizes the Northern Virginia Transportation Authority to impose additional local fees and taxes to be used for transportation purposes. The additional local fees and taxes that the Northern Virginia Transportation Authority may impose include: i) an additional fee of \$100 in Northern Virginia on initial issuances of driver's licenses;

ii) an additional annual vehicle license fee of \$10; iii) an additional initial vehicle registration fee of 1 percent of the value of the vehicle; iv) an additional vehicle inspection fee of \$10; v) an additional local grantor's tax at the rate of \$0.40 per \$100; vi) a rental car tax at the rate of two percent; and vii) a transient occupancy tax at the rate of two percent. In addition, the locality may impose a commercial real property tax at a rate not to exceed \$0.25 per \$100. This bill also authorizes the authority to impose a five percent sales and use tax on motor vehicle repair services provided within the authority. The motor vehicle repair taxes and use tax would be administered by Department of Taxation. This bill also repeals the authority in localities imposing the additional fees to impose a local income tax.

This bill also creates the Hampton Roads Transportation Authority consisting initially of the counties of Isle of Wright, James City, and York, and the cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg. Subject to approval of seven of the twelve localities embraced by the authority that include 51 percent of the population of the localities embraced by the authority, the Hampton Roads Transportation Authority is authorized to impose additional local fees and taxes to be used for transportation purposes if it imposes all of the fees authorized by this bill. The additional local fees and taxes that the localities may impose include: i) an additional fee of \$100 on initial issuances of driver's licenses; ii) an additional annual vehicle license fee of \$10; iii) an additional initial vehicle registration fee of 1 percent of the value of the vehicle; iv) an additional vehicle inspection fee of \$10; v) an additional local grantor's tax at the rate of \$0.40 per \$100; vi) a rental car tax at the rate of two percent; vii) an additional local grantor's tax at the rate of \$0.40 per \$100; viii) a rental car tax at the rate of percent; and ix) a motor fuel sales tax at the rate of two percent. In addition, the locality may impose a commercial real property tax at a rate not to exceed \$0.10 per \$100. This bill also authorizes the authority to impose a five percent sales and use tax on motor vehicle repair services provided within the authority. The motor vehicle repair taxes and use tax would be administered by the Department of Taxation. This bill also repeals the authority in localities imposing the additional fees to impose a local income tax.

