

Section 2

Year 2000 Legislative Changes Affecting Local Taxation

This section summarizes the major changes in the *Code of Virginia* enacted by the 2000 session of the Virginia General Assembly for those taxes covered in this publication. The summary is taken from the Virginia Department of Taxation's *2000 Legislative Summary* with minor changes for length constraints. 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' *2000 State Legislation Affecting Counties* and the Virginia Municipal League's *2000 Legislative Report*.

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

Prohibition from Imposing New Taxes on the Sale of Alcoholic Beverages – New

Effective Date: July 1, 2000
Code Section Amended: § 4.1-128

House Bill 416 (Chapter 450) and Senate Bill 346 (Chapter 381) clarify that localities are prohibited from imposing any tax on the sale of alcoholic beverages, except for (1) the local license tax authorized by § 4.1-205; (2) the local sales tax; and (3) the local food and beverage or meals tax. This legislation would also clarify that the authority of a locality to impose a Business, Professional, and Occupational License (BPOL) Tax on a business engaged in whole or part in the sale of alcoholic beverages is not affected if the BPOL Tax (1) is based on an annual or per event flat fee specifically authorized by general law, or (2) is an annual license or privilege tax, specifically authorized by general law, which includes alcoholic beverages in its taxable measure and treats alcoholic beverages the same as if they were non-alcoholic beverages.

Payment of Taxes and Fees with Debit Cards - New

Effective Date: July 1, 2000
Code Section Amended: § 58.1-3013

House Bill 628 (Chapter 316) permits localities to accept payment of local taxes, fees, and other charges through the use of debit cards. The service charge for use of a credit or debit card

may not exceed the amount negotiated and agreed to in a contract with the county, city or town. Under current law, localities are authorized to accept the use of credit cards for the payment of local taxes, fees or other charges generated by the sale of utility services. Localities are authorized to add a charge of up to 4.5 percent of the amount of tax, penalty and interest paid, or six dollars, whichever is greater.

Release of Owner Information to Owner's Associations – New

Effective Date: July 1, 2000

Code Section Amended: § 58.1-3

House Bill 1219 (Chapter 717) allows the Commissioner of the Revenue or other assessing official to provide to the representatives of a condominium unit owners' association, a property owners' association, a real estate cooperative association or the owner of property governed by such associations, the names and addresses of parties having a security interest in real property governed by any such associations. This information may be provided upon the receipt of a written request stating the reasons such information is needed.

Withholding of Payment of Interest on Refunds – New

Effective Date: July 1, 2000

Code Sections Amended: §§ 58.1-3916 and 58.1-3918

Senate Bill 198 (Chapter 507) allows localities to withhold the payment of interest on refunds in any of the following instances: (1) the amount of refund is ten dollars or less; or (2) the

refund is a result of pro-ration related to the personal property tax.

Notice of the Sitting of Boards of Equalization – Amended

Effective Date: July 1, 2000

Code Section Amended: § 58.1-3378

Senate Bill 381 (Chapter 383) stipulates that notice of the sittings of boards of equalization be posted at each public library, voting precinct or both, in addition to being posted at the courthouse and in newspapers having general circulation in the city or county of jurisdiction. Under current law, notices of board of equalization sittings must be posted at each voting precinct, in addition to the postings at the courthouse and newspapers having general circulation in the city or county of jurisdiction.

TANGIBLE PERSONAL PROPERTY TAX

Tangible Personal Property Used to Provide Internet Services – New

Effective Date: July 1, 2000

Code Section Amended: § 58.1-3506

House Bill 781 (Chapter 604) creates a separate classification of property for purposes of the local tangible personal property tax for tangible personal property used in the provision of Internet services. This legislation also authorizes localities to tax tangible personal property used in the provision of Internet services at lower rates than applied to the general class of tangible personal property within each locality. For the purposes of this legislation, "Internet services" are defined as a service that enables users to access content, informa-

tion, electronic mail, and the Internet as part of a package of services sold to customers.

Privately-Owned Travel Trailers Used for Recreational Purposes – Re-classified

Effective Date: July 1, 2000

Code Section Amended: § 58.1-3506

House Bill 598 (Chapter 409) includes privately-owned travel trailers used for recreational purposes in a separate class of tangible personal property for local property taxation purposes. As a result of this reclassification, localities are authorized to impose a tangible personal property tax on privately-owned travel trailers used for recreational purposes only at a rate of tax and rate of assessment which does not exceed that applicable to the general class of tangible personal property in the locality. Travel trailers are currently classified in the general class of tangible personal property, and localities are authorized to impose a tangible personal property tax on them at the same rate of tax and rate of assessment as imposed on property in the general class of tangible personal property.

Privately-Owned Motor Homes Used for Recreational Purposes – Re-classified

Effective Date: July 1, 2000

Code Section Amended: § 58.1-3506

Senate Bill 115 (Chapter 442) establishes a separate tangible personal property classification for privately-owned motor homes that are used for recreational purposes only. This legislation would provide that the rate of tax and the rate

of assessment applicable to this class of property may not exceed the rate of tax and rate of assessment applicable to the general class of tangible personal property in the locality.

Tangible Personal Property Employed in a Trade or Business – Clarification

Effective Date: July 1, 2000

Code Section Amended: § 58.1-3506

House Bill 684 (Chapter 413) clarifies that localities may impose a tangible personal property tax on all tangible personal property employed in a trade or business, other than property described in § 58.1-3503 (A)(1) through (A)(16) and (A)(18), at a rate of tax and a rate of assessment that does not exceed the rate of tax and rate of assessment imposed on the general class of tangible personal property in the locality.

Tangible Personal Property Tax Payment Due Date - Extended

Effective Date: July 1, 2000

Code Section Amended: § 58.1-3916

House Bill 1247 (Chapter 433) includes the personal property tax among those local taxes for which the governing body may offer an extension of time for payment due to good cause. The extension granted may not exceed ninety days. The legislation also provides that local governing bodies can offer such extensions only by resolution. Finally, this legislation provides that all extensions granted prior to the effective date of the legislation are ratified.

Habitat for Humanity – Exempted

Effective Date: July 1, 2000

Code Sections Amended: §§ 58.1-3506 and 58.1-3609
Code Section Added: § 58.1-3622

Senate Bill 95 (Chapter 441) exempts from tangible personal property and real estate taxation Habitat for Humanity and its local affiliates or subsidiaries. It classifies such organizations as charitable and benevolent organizations, whose real and personal property is exempt by classification. The legislation requires that a local resolution pass in support of such exemption prior to the granting of the exemption by the local governing body. Under current law, tangible personal property of Habitat for Humanity and its local affiliates is a separate classification of tangible personal property, which may be taxed at a rate not to exceed the general rate applied to tangible personal property.

Motor Vehicles Property Tax Exemption – Amended

Effective Date: July 1, 2000
Code Section Amended: § 58.1-3617

House Bill 1444 (Chapter 329) extends the current property tax exemption for motor vehicles owned by churches, religious associations or denominations operating exclusively on a non-profit basis and used predominately for church purposes, to motor vehicles leased by any of the above for the same purposes.

Commercial Fishing Equipment Reclassified – New

Effective Date: July 1, 2000
Code Section Amended: § 58.1-1101

House Bill 190 (Chapter 472) reclassifies tangible personal property used by a commercial fishing business in the wa-

ter to catch or harvest seafood (including, but not limited to, crab pots, nets, tongs, and dredge equipment) as intangible personal property. This reclassification effectively exempts this property from taxation, as intangible personal property is segregated for state taxation only, and the Commonwealth currently applies a zero tax rate to it. Under current law, this property is taxed by localities as tangible personal property. The legislation specifically provides that fishing vessels and property permanently attached to such vessels continue to be taxed as tangible personal property.

REAL ESTATE TAX

Real Estate Reporting Requirement – Amended

Effective Date: July 1, 2000
Code Section Amended: § 58.1-3294

House Bill 37 (Chapter 515) broadens the property uses exempt from the local real estate informational reporting requirement to include any property used exclusively as an owner-occupied property, not as a hotel, motel, or office over 12,000 square feet, and not engaged in a retail or wholesale business where merchandise for sale is displayed. Currently, property owners of income-producing properties must provide income and expense information to the local assessor.

Abatement of Local Real Estate Taxes on Damaged Buildings – Amended

Effective Date: April 4, 2000
Code Section Amended: § 58.1-3222

House Bill 408 (Chapter 399) permits the abatement of local real estate taxes on damaged buildings in those instances in which the buildings are rendered unusable for 30 days or more during the calendar year. Under current law, the abatement is allowed when the building damage is not repaired during the calendar year in which it occurred.

Clarification of Taxation of Real Estate Dedicated to Agricultural, Horticultural, Forest, or Open-Space Use - Amended

Effective Date: July 1, 2000

Code Section Amended: § 58.1-3231

House Bill 617 (Chapter 410) clarifies that when localities provide for the special assessment and taxation of real estate dedicated to agricultural, horticultural, forest, or open-space use on a sliding scale for real estate held for such uses for longer periods of time, they may establish lower assessments, not tax rates. Currently, localities may establish lower tax rates for real estate held for such uses for longer periods of time.

Administration of Real Estate Taxes – Amended

Effective Date: July 1, 2000

Code Section Amended: § 58.1-3967

Code Sections Added: §§ 58.1-3228 and 58.1-3965.1

House Bill 1216 (Chapter 756) authorizes any city to adopt an ordinance making real estate, on which taxes are delinquent, eligible for a tax sale on December 31 following the first anniversary of the date the taxes became due. This legislation also provides that a person notified of a tax sale of real estate by publi-

cation may request a rehearing within 90 days of the entry of the confirmation of sale (the court order that allows the property to be sold). Finally, this legislation authorizes localities to adopt an ordinance allowing the locality to release tax liens in order to facilitate the sale of real estate in certain circumstances. Such liens would remain the personal obligation of the owner of the property at the times the liens were imposed.

BUSINESS PROFESSIONAL AND OCCUPATIONAL LICENSE TAX

Member of an Affiliated Group – Amended

Effective Date: July 1, 2000

Code Section Amended: §§ 58.1-3700.1 and 58.1-3703

House Bill 1494 (Chapter 557) allows limited partnerships, limited liability partnerships, and limited liability companies to be members of an “affiliated group” for purposes of the Business, Professional, and Occupational License Tax and to exclude gross receipts or purchases from other members of the affiliated group from the taxable measure. Under current law, only corporations are eligible to be members of an affiliated group and to take advantage of this exclusion.

MISCELLANEOUS TAXES

Meals Tax

Uniform Definition of Food Adopted – New

Effective Date: July 1, 2000

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

House Bill 255 (Chapter 626) creates a uniform definition of food for local meals tax and food and beverage tax purposes. The local meals and food and beverage taxes cannot be imposed on food which meets the definition of food under the federal Food Stamp Program, with the exception of sandwiches, salad bar items sold from a salad bar, pre-packaged single-serving salads consisting of vegetables, and non-factory sealed beverages. In addition, the legislation clarifies that alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption shall not be subject to the local meals taxes. The legislation also directs the Commission on Virginia's State and Local Tax Structure for the 21st Century to study the fiscal impact on the localities if they were required to compensate businesses for the collection of the local meals tax.

Transient Occupancy Tax

Gloucester and Stafford Counties Allowed to Impose Additional Tax - New

Effective Date: July 1, 2000

Code Section Amended: § 58.1-3819

House Bill 51 (Chapter 470) allows any county having a population of no less than 29,750 and no greater than 31,000, and no less than 60,000 and no greater than 62,500, to increase its transient occupancy tax to a rate not to exceed five 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 two percent rate must be designated and

spent for tourism or tourism initiatives that attract travelers to the locality and generate tourism revenue in the locality. This legislation also provides that any transient occupancy tax in excess of two percent shall not apply to travel campgrounds in any county having a population of no less than 60,000 and no greater than 62,500.

Consumer Utility Tax

Imposition of Telecommunications Consumer Utility Tax in Towns – Amended

Effective Date: July 1, 2000

Code Section Amended: § 58.1-3812

Senate Bill 233 (Chapter 375) authorizes a county to impose a telecommunication consumer utility tax on consumers located within a town that is located within the county unless the town currently imposes such a tax and either imposed such a tax prior to January 1, 2000 or is a separate school district. Additionally, this legislation prohibits a town from imposing such a tax if the county imposes such a tax on consumers located within the town limits. Towns that imposed such a tax prior to January 1, 2000 are not subject to this prohibition.

E-911 Tax

E-911 Surcharge – Amended

Effective Date: July 1, 2000

Code Sections Amended: §§ 2.1-342.01, 2.1-344, 8.01-225, 9-6.25:2, 58.1-3812 and 58.1-3814

Code Sections Added: §§ 2.1-563.35:4, 56-484.12, 56-484.13, 56-484.14, 56-484.15, 56-484.16, 56-484.17, and 58.1-3813.1

Code Sections Repealed: §§ 56-484.8, 56-484.9, 56-484.10, 56-484.11, and 58.1-3813

Senate Bill 148 (Chapter 1064) establishes a special non-reverting fund on the books of the Comptroller called the Wireless E-911 Fund. The source for the Wireless E-911 Fund will be a monthly surcharge of 75 cents collected by each mobile service provider from each customer. The Wireless E-911 Services Board will oversee the fund. The board will pay the operators of wireless E-911 systems for their operating costs using money from the Wireless Fund based on budget information submitted by the E-911 system operators.

This legislation also allows localities that have or will establish an enhanced 911 service to impose an E-911 tax on consumers of telephone services not to exceed a monthly fee of three dollars. Any tax amounts collected must be accounted for in a separate, special revenue fund or accounted for using a cost center and revenue accounting system acceptable to the Virginia Auditor of Public Accounts.

TAX COLLECTION AND ADMIN.

Process for Collection of Local Taxes and Fees – Amended

Effective Date: July 1, 2000

Code Sections Amended: §§58.1-3128, 58.1-3921, and 58.1-3958

House Bill 751 (Chapter 453) clarifies that notices, summons, and other legal process issued by a treasurer are not required to be executed and returned in

the same manner as civil process in the courts system. Currently, all process issued by a treasurer must be executed in the same manner as civil process in the courts system.

The legislation also increases, to twenty dollars, the amount of unbilled and/or uncollected taxes, below which a treasurer is required to maintain separate official lists. The threshold under current law is five dollars.

This legislation also authorizes localities to impose fees to cover the administrative costs of collecting delinquent charges owed to the localities. Recoverable costs would include attorney's or collection agency's fees. Currently, localities may impose these fees only regarding the collection of delinquent taxes.

Administrative Costs of Collecting Delinquent Fees – Amended

Effective Date: July 1, 2000

Code Sections Amended: § 58.1-3958

House Bill 751 (Chapter 453) and Senate Bill 558 (Chapter 389) authorize localities to impose fees to cover the administrative costs of collecting delinquent charges owed to localities. Recoverable costs include attorneys' or collection agencies' fees. Currently, localities may impose these fees only regarding the collection of delinquent taxes.

