2010 LEGISLATIVE SUMMARY

Virginia
Department of Taxation

Janie E. Bowen
Tax Commissioner

[This page intentionally left blank]

INTRODUCTION

The ***Legislative Summary*** is published by the Department of Taxation (TAX) as a convenient reference guide to state and local tax legislation enacted by the 2010 Session of the General Assembly through adjournment of the reconvened session on April 21, 2010. Please note that any legislation enacted after this date is not included. The ***Summary*** includes a general description of enacted legislation affecting:

- State taxes administered by TAX, and
- Local taxes for which TAX assists with administration or on which TAX renders advisory assistance.

References to chapter numbers are to the corresponding chapters in the Acts of Assembly, which may be viewed at http://leg1.state.va.us/lis.htm. Effective dates of the legislation vary and are set out in each description.

The ***Summary*** also includes legislative studies in which TAX will be directly involved or acting in a technical support role. In general, however, legislation affecting taxes administered by other state agencies is not included in the ***Summary***.

The ***Summary*** is intended to provide a synopsis of enacted legislation and is for information purposes only. The ***Summary*** is not a substitute for the actual state law, local ordinances, and TAX regulations. Additional information on new legislation affecting state taxes may be obtained from TAX as follows:

Telephone:

Individual Income Tax	**(804) 367-8031**
Corporation Income Tax	**(804) 367-8037**
Sales and Use Tax	**(804) 367-8037**
Employer Withholding Tax	**(804) 367-8037**
Voice/TDD	**(804) 367-8329**

Live Chat: Click on the icon on TAX's website: www.tax.virginia.gov.

E-Mail: Information may also be obtained by electronic mail as follows:

TaxIndReturns@tax.virginia.gov **(Personal tax inquiries)**
TaxBusQuestions@tax.virginia.gov **(Business tax inquiries)**

E-mails sent to these addresses are not encrypted and therefore are not secure. TAX strongly recommends that you avoid including confidential or personal information.

Additional information on new local tax legislation should be obtained from your local Commissioner of the Revenue, Treasurer or Director of Finance.

Virginia Department of Taxation
June 2010

TABLE OF CONTENTS

STATE TAX

LEGISLATION

GENERAL PROVISIONS

Reduce Period of Limitation for Collection Action

House Bill 17 (Chapter 30) reduces the period of limitations for TAX to make or institute collection action from twenty to ten years from the date of the assessment.

For most of the taxes administered by TAX, the period of limitations for TAX to make an assessment is within three years from the last day prescribed by law for the timely filing of the return. In the case of a false or fraudulent return with the intent to evade payment or a failure to file a required return, the period of limitations for TAX to make an assessment is within six years from the last day prescribed by law for the timely filing of the return.

For income tax, the period of limitations for TAX to make an assessment is within three years from the last day prescribed by law for the timely filing of the return. In the case of a false or fraudulent return with the intent to evade payment or a failure to file a required return, there is no period of limitations for TAX to make an assessment. The Act requires TAX to take action to collect any assessment within ten years of the date of the assessment.

Effective: Assessments made on or after July 1, 2010
Amended: § 58.1-1802.1

Department of Taxation Electronic Communications

House Bill 837 (Chapter 635) requires TAX to develop a method by which a taxpayer would electronically receive bulletins, publications, or other information provided by TAX only upon request. This would ensure that taxpayers must "opt in" to receive electronic mailings from TAX.

Effective: July 1, 2010
Amended: § 58.1-9

Electronic Filing of Certain Returns

House Bill 1045 (Chapter 36) and Senate Bill 357 (Chapter 151) require preparers of individual income tax returns to file returns electronically if they prepared 50 or more returns in the preceding year. Existing law allows individual taxpayers to opt out of electronic filing for their own returns, and the preparer can seek a waiver from the filing requirement by demonstrating that electronic filing would cause an undue hardship. The new requirement applies to returns for Taxable Year 2011 filed in 2012.

In addition, employers who furnish more than 150 W-2 statements for calendar year 2010 and 50 W-2 statements for any subsequent calendar year are required to file them electronically. Existing law allows the employer to seek a hardship waiver from the filing requirement by demonstrating that electronic filing would cause an unreasonable burden. The new requirement applies to statements for calendar year 2010 filed in 2011.

Finally, large retailers who file consolidated retail sales and use tax returns for stores in more than one locality are required to file the consolidated return electronically. The new requirement applies to the July 2010 return due on August 20, 2010. This requirement only applies to those retailers who are required to pay their taxes electronically because they have a monthly sales tax liability in excess of $20,000.

Effective: The individual income tax return filing requirement applies to returns for taxable year 2011 (filed in 2012) and thereafter.
The annual employee wage statements (W-2) filing requirement applies to statements for taxable year 2010 (filed in 2011) and thereafter.
The consolidated sales tax return filing requirement applies to the July 2010 return (due on August 20, 2010) and thereafter.
Amended: §§ 58.1-9, 58.1-478, and 58.1-615

Governor's Reports of Revenue Estimates, Collections and Economic Activity Forecasts

House Bill 944 (Chapter 422) codifies provisions that are currently contained in the Appropriation Act, requiring the Governor to provide written monthly reports on revenue collections and written quarterly assessments of the Commonwealth's economic outlook to the General Assembly.

Under current law, the Governor is required to annually submit to the members of the General Assembly an estimate for a prospective period of six years of anticipated general fund revenue, an estimate of anticipated transportation fund revenues, and estimates of anticipated revenues for each of the remaining major nongeneral funds. These estimates are based on forecasts of economic activity in Virginia and must be reviewed by the Advisory Board of Economists, a 15-member nonlegislative board consisting of economists who are citizens of Virginia, and who do not receive compensation for their services. The estimates must also be reviewed by the Advisory Council on Revenue Estimates, which currently includes the Speaker and Majority Leader of the House of Delegates, the President pro tempore and Majority Leader of the Senate, the Chairmen of the House Committee on Appropriations, the House Committee on Finance, and the Senate Committee on Finance or their designees, as well as nonlegislative citizen members representing the private sector appointed by the Governor. All members must be citizens of Virginia.

This Act also changes the structure of the Advisory Board of Economists by requiring that the Board be chaired by the Secretary of Finance, adding to its membership the Staff Director of the House Committee on Appropriations and the Staff Director of the Senate Committee on Finance. The Act also requires that only 12 of the nonlegislative members be appointed by the Governor, at least eight of which must be citizens of the Commonwealth, and requires that 3 nonlegislative members be appointed by the Joint Rules Committee, at least 2 of which must be citizens of the Commonwealth.

In addition, this Act also changes the structure of the Advisory Council on Revenue Estimates by adding two members of the House of Delegates and two members of the Senate, and by mandating that the Governor serve as chairman of the Council.

Effective: July 1, 2010
Amended: §§ 2.2-1503, 2.2-1513

Virginia Free File Program

House Bill 1349 (Chapter 535) requires TAX to establish a Virginia Free File program based on the IRS Free File program by December 31, 2010, effective for the 2010 filing season. This program will be established through a non-monetary agreement between TAX and the "Consortium of Virginia" to offer free, online tax return preparation and filing services to 70 percent of Virginia taxpayers with the lowest incomes.

The agreement will require the Consortium to provide free tax services to certain qualified taxpayers at no cost to the Commonwealth. In exchange, TAX will be required to provide a link through TAX's website to the tax services offered by the Consortium.

The Virginia Free File Agreement must be based on and subject to the provisions of the agreement between the IRS and the Free File Alliance. In addition, the Commonwealth will be required to coordinate efforts with the IRS Free File program, the Free File Alliance and the IRS to maximize the awareness of the Virginia Free File program and the claiming of the federal earned income tax credit among eligible Virginians.

Effective: July 1, 2010
Amended: The Act does not amend the Code of Virginia

INCOME TAX

Advancement of Virginia's Fixed Date Conformity with the Internal Revenue Code

House Bills 29 (Chapter 872) and 30 (Chapter 874) advance Virginia's date of conformity to the Internal Revenue Code ("IRC") from December 31, 2008, to January 22, 2010, with limited exceptions. This avoids the necessity of requiring taxpayers to make adjustments for most federal tax changes enacted in 2009. The advancement allows the benefits of the following 2009 acts of Congress to flow through to Virginia taxpayers:

- The American Recovery and Reinvestment Act of 2009, which provides a variety of monetary provisions for states and localities to help improve the economy and tax relief for individuals and families.
- Legislation providing immediate tax deductions for Haiti charitable contributions.

Virginia continues to disallow federal income tax deductions for bonus depreciation allowed for certain assets and any five year carry-back of federal net operating loss deductions. In addition, these Acts deconform from the following federal income tax provisions:

<u>Cancellation of debt income</u>

For taxable years beginning on or after January 1, 2009, Virginia will not conform to the deferral of certain cancellation of debt income ("CODI") realized in connection with a reacquisition of business debt after December 31, 2008, and before January 1, 2011. Under IRC § 108(i), the income realized upon the reacquisition of certain business debt during 2009 and 2010 may be deferred and reported in taxable years 2014 through 2018.

Taxpayers will be required to add to their Virginia taxable income any CODI deferred in their federal returns. However, for CODI arising from debt reacquired in taxable year 2009, the taxpayer may elect to report the CODI addition required by conformity in equal amounts over three taxable years: 2009, 2010 and 2011. In all cases, taxpayers may subtract the CODI from their Virginia taxable income as the deferred amounts are recognized for federal purposes in taxable years 2014 through 2018.

<u>Earned income tax credit</u>

For taxable years beginning on or after January 1, 2010, Virginia will not conform to the increase in the federal earned income tax credit ("EITC") under IRC § 32(b)(3). Thus, taxpayers electing to base the Virginia credit for low-income taxpayers on the federal EITC must base it on the EITC computed under former law.

Domestic production deduction

For taxable years beginning on or after January 1, 2010, Virginia will not conform to the scheduled increase (from 6% to 9%) in the federal deduction allowed under IRC § 199 for certain domestic production income. Enacted in 2004, the federal deduction was phased in as follows: 3% of qualified production activities income of the taxpayer in tax years 2005 and 2006, 6% in 2007 through 2009, and 9% in 2010 and thereafter. Virginia conformed to this provision in 2005. However, Virginia will not conform to the scheduled increase to 9% in 2010 and thereafter. Therefore, beginning in 2010 taxpayers will be required to add back one-third of the federal deduction.

Effective: Taxable years beginning on or after January 1, 2009, except for the provisions affecting the domestic production deduction and the earned income credit, which are effective for taxable years beginning on and after January 1, 2010
Amended: § 58.1-301

Land Preservation Tax Credit: Charitable Organizations Eligible to Claim

House Bill 141 (Chapter 321) modifies the Land Preservation Tax Credit's restriction that prevents certain charitable organizations from qualifying for the credit. The Act clarifies that only organizations holding conservation easements acquired pursuant to the authority conferred to a "holder" under the Virginia Conservation Easement Act are prevented from qualifying for the credit. Therefore, organizations that hold certain types of conservation easements, but not as “holders” under Virginia statute, qualify to earn the credit.

The Land Preservation Tax Credit was enacted in 2002 and modified several times since then. Currently, it is equal to forty percent of the fair market value of land or interest in land located in Virginia which is conveyed for the purpose of agricultural and forestal use, open space, natural resource, and/or biodiversity conservation, or land, agricultural, watershed and/or historic preservation, as an unconditional donation by the taxpayer to a public or private conservation agency.

In several situations the law authorizing the Land Preservation Tax Credit references provisions of the Virginia Conservation Easement Act. Among the references is that qualified donations under the Land Preservation Tax Credit do not include the conveyance of a fee interest, or a less-than-fee interest, in real property by a charitable organization that (i) meets the definition of "holder" in *Va. Code* § 10.1-1009 and (ii) holds one or more conservation easements.

The Virginia Conservation Easement Act was enacted in 1988. Prior to the statutory creation of conservation easements under the Act, deeds creating restrictions on the development of property had been recorded. The conservation requirements of a number of those pre-1988 deeds are still enforceable today. Organizations holding the right to enforce those conservation requirements pursuant to pre-1988 deeds were concerned that the provision denying a tax credit to a "holder" may prevent them from earning a tax credit.

The Act clarifies the definition of "holder" to mean an organization holding enforcement rights to a conservation easement created pursuant to the provisions of the Virginia Conservation Easement Act.

Effective: July 1, 2010
Amended: § 58.1-512

Land Preservation Credit Transfer Fee

House Bill 447 (Chapter 229) and Senate Bill 264 (Chapter 248) remove the $10,000 cap on the fee that is assessed when Land Preservation Tax Credits are transferred and limit the revenues used to recover the costs incurred by TAX and the Department of Conservation and Recreation for the administration of the credit to 50 percent of the total revenue generated by the fee on an annual basis.

In addition, these bills also provide that the remainder of the amount generated by the fee be transferred to the Virginia Land Conservation Fund for distribution to the public or private agencies or organizations that are responsible for enforcing the conservation and preservation purposes of the donated interests. The Virginia Land Conservation Foundation is required to distribute annually such revenues proportionally based on a three-year average of the number of donated interests accepted by the public or private conservation agencies or organizations during the immediately preceding three year period.

Any taxpayer holding a Land Preservation Tax Credit may transfer the unused credit for use by another taxpayer. The taxpayer transferring the credit must notify TAX of the transfer. There is a 2 percent fee on the value of the donated interest imposed for the transfer of credits. The transfer fee was previously capped at $10,000. This fee is also applied when pass-through entities distribute the credit to members, managers, partners, shareholders or beneficiaries. Revenues generated by the fees are used to recover the costs incurred by TAX and the Department of Conservation and Recreation for the administration of the Land Preservation Tax Credit.

Effective: For sales, distributions or transfers of credits arising from donations of land or an interest in land occurring on or after July 1, 2010
Amended: § 58.1-513

Land Preservation Tax Credit: Reduction in Amount Claimed Per Year

Senate Bill 233 (Chapter 246) extends the $50,000 limitation on the amount of Land Preservation Tax Credits that may be claimed on income tax returns through Taxable Year 2011. The carryover period will also be extended by one year for those affected by this limitation.

For Taxable Years 2009 and 2010, the amount of Land Preservation Credits that may be claimed on income tax returns was reduced from $100,000 per taxpayer to $50,000 per taxpayer. The carryover period was extended by two years for those affected by the limitation.

Effective: Taxable years beginning on and after January 1, 2011
Amended: § 58.1-512

Land Preservation Tax Credit: Verification of Conservation Value

Senate Bill 661 (Chapter 265) requires a taxpayer to have the Department of Conservation and Recreation verify the conservation value of certain donations of land or interests in land if the application for a Land Preservation Tax Credit would result in a credit of $250,000 or more. This requirement will be applicable only when the real property that is the subject of the donation was partitioned from or part of another parcel of land and any other portion of the original parcel had received a Land Preservation Tax Credit or had an application for such a credit pending within 3 years of the donation.

Currently, the conservation value of a donation must be verified by the Department of Conservation and Recreation only if the taxpayer's application is for a credit of $1 million or more. In the event that a credit was allowed for any other portion of the recorded parcel of land within the preceding 11 years and any of the applicants are affiliated with or immediate family of the taxpayer who previously received a credit, the conservation value of the donation must be verified when the aggregate of such credits is $1 million or more.

Effective: July 1, 2010
Amended: § 58.1-512

Subtraction for Capital Gains Income

House Bill 523 (Chapter 830) and Senate Bill 428 (Chapter 802) allow an individual and corporate income tax subtraction for income taxed for federal income tax purposes as a long-term capital gain or as investment services partnership interest income (otherwise known as investment partnership carried interest income).

Almost everything owned and used for personal or investment purposes is a capital asset. Examples include homes, household furnishings, and stocks, bonds or other forms of investment. When a capital asset is sold, the difference between what the taxpayer paid for the asset (the "basis") and the amount for which it is sold is a capital gain or a capital loss. A capital gain is realized if the asset sells for more than base amount, while a capital loss is realized if the asset sells for less than the base amount.

Capital gains and losses are classified as either long-term or short-term. If an asset is held for more than one year before it is sold, the capital gain or loss is long-term. A short-term capital gain is when the asset is held for one year or less.

If a net capital gain is realized, for federal income tax purposes, that gain may be taxed at a lower tax rate than the ordinary income tax rates. The "net capital gain" is the amount by which a net long-term capital gain for the year is more than the sum of the net short-term capital loss and any long-term capital loss carried over from the previous year. Currently, net capital gain is generally taxed at rates no higher than 15%, although, for 2008 through 2010, some or all net capital gain may be taxed at 0%, if it would otherwise be taxed at lower rates. Virginia does not currently have any preferential tax treatment for capital gains.

Carried interest is a share in the profits of a partnership given to its general partner or other managers, such as managers of investment partnerships, hedge funds, or private equity funds, in exchange for their management services. When a share of a partnership is purchased, the purchaser receives a capital interest, which is the share of ownership that was purchased, and a profits interest, which is the share of the profits earned by the partnership. A carried interest, therefore, is generally a profits interest without the capital interests.

Because the manager or general partner is compensated with a profits interest, the bulk of this income is taxed not as a compensation for services, but as a return on an investment. As the types of funds involved in these cases typically invest on a longer time horizon, this income is often taxed as a long-term capital gain.

These Acts will allow the subtraction only when the income is related to investments in "qualified businesses" as defined for the purposes of the Qualified Equity and Subordinated Debt Credit (QESDC), or in any other technology business approved by the Secretary of Technology, provided its principal office or facility is in the Commonwealth and it has less than $3 million in annual revenues in the fiscal year prior to the investment. The applicable investment must be made on or after April 1, 2010, but before July 1, 2013.

These Acts will also provide that a taxpayer who claims a tax credit for investment in a qualified business under the QESDC will not be allowed to claim this subtraction relating to investments in the same business.

Under these Acts, no investment will qualify for this subtraction if the otherwise qualified business performs research in Virginia on human cells or tissue derived from induced abortions or from stem cells obtained from human embryos. However, the subtraction will be applicable for investments in qualified businesses that conduct research using stem cells other than embryonic stem cells.

Effective: Taxable years beginning on or after January 1, 2011
Amended: § 58.1-322 and 58.1-402

Major Business Facility Job Tax Credit

House Bill 624 (Chapter 363) and Senate Bill 472 (Chapter 469) reduce the number of qualified full-time jobs needed to qualify for the Major Business Facility Job Tax Credit from 100 to 50. The Acts also reduce the number of qualified full-time jobs needed to qualify for the Major Business Facility Job Tax Credit in economically distressed areas or enterprise zones from 50 to 25. These Acts will also continue to allow the credit to be claimed over two years instead of three through December 31, 2012.

Currently, individuals, estates, trusts, corporations, banks, and insurance companies may claim a Virginia tax credit if the taxpayer creates at least 100 new full-time jobs in connection with the establishment or expansion of a major business facility, and the company is engaged in a qualifying industry in Virginia. If a taxpayer is located in an enterprise zone or in an economically distressed area (as defined by the Virginia Economic Development Partnership) or an enterprise zone, the threshold is reduced from 100 to 50. Credits are recaptured proportionately if employment decreases during the five years following the initial credit year.

The nonrefundable credit is equal to $1,000 for each qualifying new job in excess of the applicable job threshold. Under prior law the applicable thresholds were 50 qualifying new jobs in an enterprise zone or economically distressed area, and 100 qualifying new jobs elsewhere in Virginia. The Act reduces these thresholds to 25 and 50, respectively. Prior to 2009 the credit was claimed over three years ($333 per job per year). Effective for taxable years beginning on January 1, 2009, the period for claiming the credit was temporarily reduced to two years ($500 per job per year). The Act extends the two-year claiming period through 2012.

Effective: Applicable for qualified fulltime employees hired on or after January 1, 2010
Amended: § 58.1-439

Tax Credit for Participating Landlords

House Bill 764 (Chapter 520) and Senate Bill 458 (Chapter 608) require the Department of Housing and Community Development (“DHCD”) to cease approving Low-Income Housing Credits after June 30, 2010, and create a new credit, capped at $450,000 per year, which will also be administered by DHCD.

The low-income housing tax credit was enacted in 1989 and became effective in 1998. The credit may be taken against the individual, estate, fiduciary, corporate income taxes, bank franchise tax and the gross receipts tax on insurance premiums. The credit may be taken in any five taxable years in which a federal low-income housing tax credit is allowed, and is equal to a percentage of the federal low-income housing credit taken by the taxpayer on their federal return. The percentage is determined by DHCD.

Currently, the maximum amount of credits available is limited to $500,000 annually. Taxpayers are allowed to carry over any unused credit for 5 taxable years or until the full credit is used, whichever occurs first. In order to claim the low-income housing credit, the taxpayer must apply to DHCD for approval. Upon approval of the credit, DHCD provides the person with a certification that must be attached to the taxpayer's income tax return filed with TAX.

Under these Acts, participating landlords are eligible for an individual or corporate tax credit equal to 10% of the fair market value of the rent for each qualified housing unit, computed for the portion of the tax year in which the unit was rented to a tenant participating in a housing choice voucher program. Any unused credits will be allowed to be carried over for the next five taxable years or until the total amount of the tax credit issued has been taken, whichever is sooner. If the total amount of the tax credits exceeds $450,000 in a fiscal year, then the tax credits will be prorated among the qualified applicants.

These Acts require DHCD to determine the fair market value of the housing unit based on the fair market rent approved by the United States Department of Housing and Urban Development as the basis for the tenant-based assistance provided through the housing choice voucher program for the qualified housing unit. Only dwelling units located in a census tract in the Richmond Metropolitan Statistical area in which less than 10 percent of the residents live below the poverty level will qualify for this credit.

These Acts provide that a taxpayer will not be allowed to claim this credit and the rent reductions tax credit in the same taxable year.

In order to qualify for the tax credit, these Acts require that participating landlords apply to DHCD. DHCD will then issue written certification to the landlord reporting the amount of the tax credit. This certificate must be attached to the landlord's income tax return. These Acts will also require DHCD to establish and issue guidelines, exempt from the Administrative Process Act, that address the allocation of tax credits among participating landlords requesting credits.

Finally, these Acts provide that credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) must be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entities.

Effective: Taxable years beginning on or after January 1, 2010

Amended: §§ 36-55.63 and 58.1-435
Added: § 58.1-439.12:03 (as enacted. The Virginia Code Commission may renumber this section to avoid conflict with other Acts.)

Green Jobs Tax Credit

House Bill 803 (Chapter 727) and Senate Bill 623 (Chapter 722) allow a corporate and individual income tax credit for each new "green job" that is created in Virginia. The amount of the credit is $500 for each job that is created and that has an annual salary of $50,000 or more. The tax credit is allowed in the first taxable year in which the job had been filled for at least one year, and for the four succeeding taxable years in which the job is continuously filled. The tax credit is allowed for up to 350 green jobs per taxpayer.

Under these Acts, in order to qualify for the tax credit, the taxpayer will need to demonstrate that the green job was created by the taxpayer and the job was filled for the taxable year in which the credit is claimed. These Acts allow any unused credits to be carried over for five taxable years. Any taxpayer that is allowed a green jobs tax credit is allowed to qualify for benefits under the Enterprise Zone Grant Program. In addition, taxpayers may not claim this credit and the MBFJTC or a federal tax credit for investments in clean energy manufacturing facilities that fosters job creation for the creation of the same job.

Finally, any credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) must be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entities.

Effective: Taxable years beginning on or after January 1, 2010, but before January 1, 2015
Added: § 58.1-439.12:03 (as enacted. The Virginia Code Commission may renumber this section to avoid conflict with other Acts.)

Motion Picture Production Tax Credit

House Bill 861 (Chapter 419) and Senate Bill 257 (Chapter 599) create a series of refundable individual and corporate income tax credits for motion picture production companies meeting certain criteria. The first credit is equal to 15 percent of the production company's qualifying expenses, or 20 percent of such expenses if the production is filmed in an economically distressed area of the Commonwealth, for any motion picture production company with qualifying expenses of at least $250,000 with respect to a motion picture film production filmed in Virginia. The credit must be computed based on all of the taxpayer's qualifying expenses incurred with respect to the production.

"Qualifying expenses" means the sum of the following amounts spent in Virginia by a production company for the production of a motion picture film or an episodic television series filmed in Virginia:

- Goods and services leased or purchased. For goods and services with a purchase price of $25,000 or more, the amount included in qualifying expenses is the purchase price less the fair market value of the good at the time the production is completed.
- Compensation and wages. If direct or indirect compensation and wages are paid to an individual for personal services with respect to a single production in excess of $1 million, however, only the first $1 million would be considered a qualifying expense. An individual would be deemed to receive compensation indirectly when a production company pays a personal service company or an employee leasing company that pays the individual.

These Acts allow an additional credit equal to 10 percent of the total aggregate payroll for Virginia residents employed in connection with the production of a film in Virginia when total production costs in Virginia are at least $250,000, but not more than $1 million. The additional credit is equal to 20 percent of the total aggregate payroll of such residents when total production costs in Virginia exceed $1 million.

These Acts also allow the production company an additional credit equal to 10 percent of the total aggregate payroll for Virginia residents employed for the first time as an actor or a member of a production crew in connection with the production of a film in Virginia.

The credit is not allowed for any production that:

- Is political advertising;
- Is a television production of a news program or live sporting event;
- Contains obscene material; or
- Is a reality television production.

Effective January 1, 2013, for the purpose of eligibility for refundable tax credits, a motion picture film production will include digital interactive media production.

The taxpayer is required to apply for a credit to the Virginia Film Office prior to the start of production in Virginia. In addition, the taxpayer is required to enter into a memorandum of understanding with the Virginia Film Office that at a minimum provides the requirements which the taxpayer must meet in order to receive the credits, including but not limited to the estimated amount of money to be spent in Virginia, the timeline for completing production in Virginia, and the maximum amount of credits allocated to the taxpayer.

The issuance of credits is required to be in accordance with procedures, qualifying criteria, and deadlines established by the Department and the Virginia Film Office. The qualifying criteria established by the Virginia Film Office is required to take into account whether the production involves physical production within the Commonwealth of Virginia, the number of residents of Virginia that will be employed in the production and the level of compensation they will be paid, the extent to which the production will contribute to the support and expansion of existing production companies in Virginia, the extent to which the production will impact existing local businesses and the local economy, the extent to which the production will involve existing and new companies located in Virginia, and other relevant considerations.

Once the taxpayer had satisfied all of the requirements in the memorandum of understanding to the satisfaction of the Virginia Film Office and completed production in Virginia, the taxpayer is allowed to claim the applicable amount of credits up to the amount that had been allocated by the Virginia Film Office on a return filed for the taxable year in which the Virginia production activities were completed.

The amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company may be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

The aggregate amount of all credits allowed to be issued is capped at $2.5 million for the 2010-2012 biennium and $5 million in each biennium thereafter.

These Acts require TAX, in consultation with the Virginia Film Office, to publish by November of each year the following information, for the preceding 12-month period ending the preceding December 31:

- The location of sites used in a production for which a credit was claimed.
- The qualifying expenses for which a credit was claimed, classified by whether the expenses were for goods, services, or compensation paid by the production company.
- The number of individuals employed in Virginia with respect to credits claimed.
- The total cost to the General Fund of the credits claimed.

These Acts also require TAX to establish guidelines implementing the provisions of these credits. The guidelines are exempt from the Administrative Process Act.

These Acts provide a severability clause, which states that the requirements regarding Virginia expenditures and the employment of Virginia residents are integral to the purpose of the credit and not severable.

Effective: January 1, 2011
Added: § 58.1-439.12:03 (as enacted. The Virginia Code Commission may renumber this section to avoid conflict with other Acts.)

Reporting Requirements for Out-Of-State Tax Credit

House Bill 384 (Chapter 228) extends the statute of limitations for filing amended individual income tax returns for Virginia residents who are audited and assessed income tax by other states.

Under current law, Virginia residents are allowed a credit against their income tax liability when they pay income tax to another state. The intent of the credit is to grant Virginia residents relief in situations were they are taxed by both Virginia and another state on the same income.

Prior to 2006, when another state assessed tax after the normal three-year period for filing amended Virginia returns, the taxpayer could not claim the credit for the other state's tax. If the taxpayer failed to make a timely request to extend the statute of limitations, they lost the opportunity to claim an offsetting credit on their Virginia return.

In 2006, the General Assembly enacted legislation (2006 Acts of Assembly, Chapter 234 Senate Bill 583) to permit Virginia residents who claimed an out-of-state tax credit on their original return to file amended returns. That legislation allowed taxpayers who had claimed a credit for taxes paid to another state one year from the final determination of a change made by any other state to file an amended Virginia return.

Other states have audited and assessed tax to Virginia residents who did not claim an out-of-state tax credit on their original Virginia return. This has resulted in a number of Virginia residents being denied refund claims.

The provisions of this Act, therefore, will allow all Virginia taxpayers to claim the credit for taxes paid to other states provided they notify TAX within one year of the other state's action.

Effective: Amended returns filed on or after July 1, 2010
Amended: § 58.1-1823

Neighborhood Assistance Act Tax Credit – Definition of "Impoverished People"

Senate Bill 633 (Chapter 164) changes the definition of "impoverished people" for education proposals under the Neighborhood Assistance Act Tax Credit program from individuals with family annual income of 180 percent of the current federal poverty guidelines, to 200 percent of the current federal poverty guidelines. For other than education proposals, the definition will continue to mean individuals with family annual income not in excess of 150 percent of the current federal poverty guidelines.

The Virginia Neighborhood Assistance Act ("NAA") provides an income tax credit to businesses and individuals that donate to neighborhood organizations for approved programs that benefit impoverished people. Under the NAA, a neighborhood organization is allocated funding through the Neighborhood Assistance Act Program.

The Department of Social Services ("DSS") and the Department of Education ("DOE") are responsible for approving the programs and allocating the tax credits to the neighborhood organizations. When an individual or business donates to an organization that qualifies as a neighborhood organization, they are eligible to receive an income tax credit from that neighborhood organization.

In 2009, the General Assembly (2009 Acts of Assembly, Chapter 851, Senate Bill 1325), amended the definition of "impoverished people" to mean individuals with family annual income not in excess of 180 percent of the current poverty guidelines for education proposals submitted to the Superintendent of Public Instruction requesting an allocation of tax credits. For other than education proposals, "impoverished people" was defined to mean individuals with family annual income not in excess of 150 percent of the current poverty guidelines.

Effective: July 1, 2010
Amended: § 58.1-439.18

Qualified Equity and Subordinated Debt Investment Tax Credit

House Bill 30 (Chapter 874) increases the capped amount of the Qualified Equity and Subordinated Debt Investment Tax Credit from $3 million to $5 million. The credit is currently capped at $3 million each year.

In 2009, the General Assembly passed legislation that requires one-half of the $3 million to be reserved for qualified businesses created to commercialize research developed at, or in, partnership with an institution of higher education. Any portion of the $3 million authorization that is not used for "commercialization investment" would be available for all other qualified businesses.

The Qualified Equity and Subordinated Debt Investment Tax Credit is limited to individuals or corporations making investments in businesses related to advanced computing, advanced materials, advanced manufacturing, agricultural technologies, biotechnology, electronic device technology, energy, environmental technology, medical device technology, nanotechnology, or any similar technology-related field.

Effective: Taxable Years beginning on or after January 1, 2010
Amended: § 58.1-339.4

Virginia Military Family Relief Fund

House Bill 1118 (Chapter 287) and Senate Bill 619 (Chapter 391) are "Section 1" bills declaring that it is the policy of the Commonwealth to exclude from income any benefit paid from the Virginia Military Family Relief Fund to the extent that the benefit was included in federal adjusted gross income.

The Virginia Military Family Relief Fund (the Fund) was created in 2006 as a special nonreverting fund to be administered by the Office of the Adjutant General. All moneys appropriated by the General Assembly or received as private gifts, grants, or donations contributed to the Fund and revenues received by the Commonwealth for the Fund through voluntary contributions are paid into the state treasury and credited to the Fund.

Moneys in the Fund must be used solely for the purposes of assisting members of the Virginia National Guard and Virginia residents who are members of the reserves of the armed forces of the United States who have been called to extended active duty for periods in excess of 90 days, and their families, with living expenses. Living expenses include but are not limited to food, housing, utilities, and medical services.

Benefits paid from the Military Family Relief Fund are distributed in the form of grants to qualified service members and their families. Currently, there is no clear guidance from the Internal Revenue Service as to whether grants issued by the Fund would be included in federal adjusted gross income.

Effective: July 1, 2010
Amended: The Acts do not amend the Code of Virginia

Pass-through Entity Withholding Tax Penalties

Senate Bill 178 (Chapter 120) conforms the pass-through entity withholding tax penalties to the penalties applicable to other taxes administered by TAX.

Pass-through entities that are required to pay the withholding tax must pay the required amount on Form 502, which is due the 15th day of the fourth month following the close of the taxable year. Although the time for filing Form 502 may be extended to six months after the due date, or 30 days after the extended date for filing the federal report, whichever is later, the time for paying the amount of withholding tax due is not extended.

If the taxpayer pays the withholding tax within the extension period but had underestimated the balance of tax in excess of 10 percent of the actual tax liability, a penalty will be added in the amount of two percent per month of the balance of tax due for each month or fraction thereof from the original due date for the filing of the withholding tax return to the date of payment.

If any payment is not made in full when due, a late payment penalty of six percent will be added to the unpaid balance of tax per month or fraction thereof during which the failure to pay continued, not to exceed 30 percent in the aggregate. Interest will also be added from the date the tax or any unpaid balance of the tax was originally due until paid. For any month or fraction thereof for which the pass-through entity is subject to this penalty and the late filing penalty of $200 per month up to $1,200, the greater of the two penalties will apply. The late filing penalty is currently assessed in addition to any late payment penalty that may apply.

The late payment penalty will not apply to any tax attributable to income that was included on a unified nonresident individual income tax return.

Effective: Taxable years beginning on or after January 1, 2009
Amended: § 58.1-486.2
Added: § 58.1-486.3

VOLUNTARY CONTRIBUTIONS OF INCOME TAX REFUNDS

Voluntary Contribution for the Virginia Capitol Preservation Foundation

Senate Bill 669 (Chapter 690) adds the Virginia Capitol Preservation Foundation to the list of voluntary contributions that may be added to the individual income tax return. All funds received from this voluntary contribution will go to the Virginia Capitol Foundation. The Virginia Capitol Preservation Foundation is a charitable organization supporting the ongoing restoration, preservation, and interpretation of the Virginia Capitol and Capitol Square.

Effective: July 1, 2010
Amended: § 58.1-344.3

<u>Appearance of New Contributions on the Tax Return</u>

In 2004, the General Assembly limited to 25 the number of qualifying organizations that could appear on the income tax return, and required that organizations receive at least $10,000 in voluntary contributions annually for at least 3 consecutive years in order to continue to be included on the individual income tax return. Additional legislation in 2005 clarified the process for adding and removing voluntary contributions.

Following this statutory process, as space becomes available on the return, new voluntary contributions will be added to the individual income tax return in the order in which they were enacted. With this year's legislation, there are now eight voluntary contributions awaiting placement on the return. At this time, no organizations are scheduled to be removed from the list of voluntary contributions on the 2010 individual income tax return because the data for returns processed through the end of 2009 indicates that the current organizations have all met the $10,000 threshold.

Anticipated Placement on Returns (as space becomes available)

1) Medicare Part D Counseling Fund;
2) Community foundations;
3) Virginia Foundation for Community College Education;
4) Middle Peninsula Chesapeake Bay Public Access Authority;
5) Breast and Cervical Cancer Prevention and Treatment Fund;
6) Virginia Aquarium and Marine Science Center; and
7) Virginia Capitol Preservation Foundation.

Set out in the table below is a summary of all of the voluntary contributions that have been removed from or added to the individual income tax return since *Va. Code* § 58.1-344.3 was amended in 2004 and 2005 to establish the current process.

Summary of Voluntary Contributions			
2005: *Changes Reflected On Income Tax Returns For 2005*			
Program / Fund	**Enacted**	**Action**	**Comments**
University of Virginia Center for Government Studies	1999 ch. 948	• Removed from 2005 return • First appeared on 1999 return	• § 58.1-344.3 B 11 • Failed to receive $10,000 in 2001, 2002 & 2003 • Expired with 2004 return
George Mason Law and Economics Center	1999 ch. 948	• Removed from 2005 return • First appeared on 1999 return	• § 58.1-344.3 B 12 • Failed to receive $10,000 in 2001, 2002 & 2003 • Expired with 2004 return
Virginia Foundation for the Humanities and Public Policy Fund	1999 ch. 948	• Removed from 2005 return • First appeared on 1999 return	• § 58.1-344.3 B 10 • Failed to receive $10,000 in 2001, 2002 & 2003 • Expired with 2004 return
Office of Commonwealth Preparedness	2004 ch. 649	• Added to 2005 return	• § 58.1-344.3 B 21
2006: *Changes Reflected On Income Tax Returns For 2006*			
Program / Fund	**Enacted**	**Action**	**Comments**
4-H Educational Centers (4H Camp)	2001 ch. 535	• Removed from 2006 return • First appeared on 2002 return	• § 58.1-344.3 B 14 • Failed to receive $10,000 in 2002, 2003 & 2004
Virginia Transplant Council	2001 ch. 560	• Removed from 2006 return • First appeared on 2002 return	• § 58.1-344.3 B 15 • Failed to receive $10,000 in 2002, 2003 & 2004
Cancer Centers	2004 ch. 649	• Added to 2006 return	• § 58.1-344.3 B 22

Summary of Voluntary Contributions			
Brown v. Board of Education Scholarship Program Fund	2005 ch. 860, 889	• Added to 2006 return	• § 58.1-344.3 B 23
2007: *Changes Reflected On Income Tax Returns For 2007*			
Program / Fund	**Enacted**	**Action**	**Comments**
Commission for the Arts	2003 ch. 878	• Removed from 2007 return • First appeared on 2004 return	• § 58.1-344.3 B 20 • Failed to receive $10,000 in 2004 • Commission also receives contributions via checkoff for Virginia Arts Foundation
Martin Luther King, Jr. Living History and Public Policy Center Fund	2005 ch. 860, 889	• Added to 2007 return	• § 58.1-344.3 B 24
2008: *Changes Reflected On Income Tax Returns For 2008*			
Program / Fund	**Enacted**	**Action**	**Comments**
Office of Commonwealth Preparedness	2004 ch. 649	• Removed from 2008 return • First appeared on 2005 return	• § 58.1-344.3 B 21 • Failed to receive $10,000 in 2005 and 2006
Jamestown-Yorktown Foundation	1999 ch. 210	• Removed from 2008 return • First appeared on 2000 return	• § 58.1-344.3 C 3 • Authorized for taxable years beginning before January 1, 2008
Virginia Caregivers Grant Fund	2005 ch. 860, 889	• Added to 2008 return	• § 58.1-344.3 B 25
Virginia Military Family Relief Fund	2006 ch. 103, 479	• Added to 2008 return	• § 58.1-344.3 C 8
2009: *Changes Reflected On Income Tax Returns For 2009*			
Program / Fund	**Enacted**	**Action**	**Comments**
Brown v. Board of Education Scholarship Program Fund	2005 ch. 860, 889	• Removed from 2009 return • First appeared on 2006 return	• § 58.1-344.3 B 23 • Failed to receive $10,000 in 2006, 2007 and 2008
Virginia Caregivers Grant Fund	2005 ch. 860, 889	• Removed from 2009 return • First appeared on 2008 return	• § 58.1-344.3 B 25 • Program not funded in FY 2009 • Removed at suggestion by DSS
Public library foundations	2007 ch. 70	• Added to 2009 return	• § 58.1-344.3 B 26
Celebrating Special Children, Inc.	2007 ch. 70	• Added to 2009 return	• § 58.1-344.3 B 27

RECORDATION AND PROBATE TAXES

Recordation Fee Increase

House Bills 29 (Chapter 872) and 30 (Chapter 874) increase the recordation fee for every deed or certificate of satisfaction from $10 to $20. These Acts will require that fifty percent of the revenue generated from the fee be deposited to the Virginia Natural Resources Commitment Fund, a subfund of the Virginia Water Quality Improvement Fund. The funds deposited to this subfund will be allocated to the Virginia agricultural best management practices cost share program.

In 2008, the General Assembly passed legislation that created a $10 fee on every deed or certificate of satisfaction. The revenue generated from this fee is currently deposited into the general fund.

Effective: July 1, 2010
Amended: §§ 58.1-801(A), 58.1-803, and 55-66.6

Fee in Lieu of Probate Tax

Senate Bill 692 (Chapter 266) imposes a state fee in the amount of $25 and allows localities to impose a fee in the amount of $25 for the recordation of a list of heirs or a specified affidavit. This fee does not apply if a will has been probated for the decedent or there has been a grant of administration on the decedent's estate.

When a decedent dies, Virginia law requires the personal representative of a decedent or other qualified person to furnish the court or clerk a list of heirs under oath in accordance with a form provided to each clerk of court. The list of heirs must be furnished to the clerk of the circuit court in the city or county where real estate belonging to the decedent is located and where the personal representative has qualified. If no personal representative qualifies within thirty days following the death of the property owner, any heir of the decedent who died intestate may come forward to file the list of heirs.

A list of heirs provides evidence regarding who is entitled to the estate of a decedent that dies without a will, but it does not specifically convey or transfer a decedent's estate to his or her heirs.

A probate tax is imposed on the probate of most wills and grants of administration, and applies to property in Virginia. No tax is imposed on estates valued at $15,000 or less. The tax is assessed at a rate of ten cents per $100 on estates valued at more than $15,000, including the first $15,000 of assets. For example, the tax on an estate valued at $16,000 is $16.00. Localities may also impose a local probate tax equal to 1/3 of the state probate tax.

Effective: July 1, 2010
Amended: §§ 58.1-1718 and 58.1-3805
Added: § 58.1-1717.1

AGRICULTURAL COMMODITY TAXES

Peanut Excise Tax

House Bill 888 (Chapter 7) and Senate Bill 32 (Chapter 37) increase the Peanut Excise Tax to $0.30 per 100 pounds of peanuts grown in and sold in the Commonwealth for processing beginning July 1, 2010 and ending June 30, 2013. Beginning July 1, 2013, the tax will revert to the current rate of $0.15 per 100 pounds. These Acts also expand the tax to include peanuts sold for seed.

Additionally, these Acts allow the Virginia Peanut Board to enter into an agreement with the Federal Commodity Credit Corporation for marketing assistance or a price support loan. These Acts also allow the Tax Commissioner, upon request, to provide the Virginia Peanut Board with a list of taxpayers who have paid the tax and the amounts paid. The agreement with the Federal Commodity Credit Corporation and the information sharing arrangement with TAX are similar to the treatment of other commodity taxes.

The Peanut Excise Tax is levied on peanuts grown in and sold in the Commonwealth for processing. The processor is liable for payment of the tax on all peanuts purchased. A processor is defined as any person, individual, corporation, partnership, trust, association, cooperative and any and all other business units, devices and arrangements that clean, shell or crush peanuts. The tax is a semi-annual tax with returns due and payable on July 10 and February 15. All revenue from the Peanut Excise Tax is deposited into the Peanut Fund.

The Peanut Fund is a special nonreverting fund used solely for the purposes of paying the costs of collecting the tax levied on peanuts and the administration the Virginia Peanut Board. The Virginia Peanut Board was created to plan and conduct campaigns for education, advertising, publicity, sales promotion, and research regarding Virginia peanuts. The Virginia Peanut Board may cooperate with other state, regional, and national agricultural and peanut organizations in research, advertising, publicity, education, and other means of promoting the sale and use of peanuts, and may expend moneys of the Peanut Fund for such purposes.

The Federal Commodity Credit Corporation is a government-owned and operated entity that was created to stabilize, support, and protect farm income and prices. The Federal Commodity Credit Corporation also helps maintain balanced and adequate supplies of agricultural commodities and aids in their orderly distribution. The Federal Commodity Credit Corporation's Charter Act, as amended, aids producers through loans, purchases, payments, and other operations, and makes available materials and facilities required in the production and marketing of agricultural commodities.

Effective: July 1, 2010
Amended: §§ 3.2-1904, 3.2-1905, and 3.2-1907

RETAIL SALES AND USE TAX

Accelerated Sales Tax

House Bill 29 (Chapter 872), Item § 3-5.14, and House Bill 30 (Chapter 874), Item § 3-5.08, require certain Retail Sales and Use Tax dealers and direct payment permit holders ("Dealers") to make an additional payment in June of each year. Beginning in 2010, any Dealer with taxable sales and/or purchases of $1 million or greater in the previous fiscal year must make a payment in June equal to 90 percent of his Retail Sales and Use Tax liability for June of the previous year. Affected Dealers will be entitled to take a credit for this amount on the return for June of the current year due July 20. TAX will notify all affected Dealers and provide them with payment instructions and a payment voucher for the additional payment.

The payment must be made by June 30 if paying electronically, and by June 25 if paying by any other means. The failure to make a timely and full payment of the accelerated sales tax will subject the Dealer to a penalty of six percent of the amount of tax underpayment. No other penalty for delinquent returns or payments will apply except with respect to fraudulent returns.

TAX has issued guidelines and rules to provide guidance to taxpayers regarding the accelerated sales tax payment. Included in the Guidelines is an explanation of how eligible taxpayers may obtain a hardship waiver. The Tax Commissioner may waive the requirement for Dealers to make the accelerated sales tax payment or allow the Dealer to pay a lesser amount upon a finding that the accelerated payment requirement would cause an undue hardship. In general, if the Dealer can show an undue hardship, the Tax Commissioner will allow the Dealer to make an accelerated sales tax payment equal to 90% of the Dealer's average monthly Retail Sales and Use Tax liability for the first quarter of the current calendar year. The Tax Commissioner will not waive the requirement for payment of the accelerated sales tax payment except for in extraordinary circumstances

With the exception of revenues attributable to the local Retail Sales and Use Tax imposed at the rate of 1%, all revenues collected from the accelerated sales tax payment will be considered General Fund revenue. If the Governor determines on July 31 of each year that funds are available to distribute the state Retail Sales and Use Tax revenues, he shall direct the State Comptroller to make such allocation.

Effective: Effective beginning with the June 2010 return. The General Assembly has declared its intent that the accelerated sales tax payment requirement be phased out beginning in Fiscal Year 2013 with the payment amount for June 2013 being reduced to 85 percent of the sales and purchases for the previous June and that the payment amount should continue to be reduced until fully eliminated not later than June 2021.

Suspension and Reduction of Dealer Discounts

House Bill 29 (Chapter 872), Item § 3-5.15, and House Bill 30 (Chapter 874), Item § 3-5.09, suspend the Retail Sales and Use Tax dealer discount for dealers required to remit the Retail Sales and Use Tax by electronic funds transfer, and reduces the dealer discount for other dealers.

Any dealer who has an average monthly Retail Sales and Use Tax liability exceeding $20,000 is required to remit the Retail Sales and Use Tax by electronic funds transfer. The dealer discount previously available for these dealers is suspended beginning with the June return due July 20, 2010. While all dealers may remit both the Retail Sales and Use Tax by electronic funds transfer, only those who are required to remit using electronic funds transfer will lose the dealer discount in its entirety.

For all other dealers the dealer discount will continue to be allowed on the first three percent of the state Retail Sales and Use Tax and will be computed without regard to the number of certificates of registration that a dealer holds. The current discount percentages, however, will be reduced from 4%, 3%, and 2% to 1.6%, 1.2%, and 0.8% beginning with the June return due July 20, 2010.

As the Digital Media Fee is administered by TAX in the same manner as the Retail Sales and Use Tax, the dealer discount available for the ten percent Digital Media Fee will be reduced in the same manner. In addition, the dealer discount for dealers required to remit the Digital Media Fee by electronic funds transfer will be suspended.

The Acts also suspend the dealer discounts for the Tire Fee, Communications Sales and Use Tax, the landline E-911 Tax, and the Tobacco Products Tax beginning with the June return due July 20, 2010. The compensation to cigarette stamping agents on sales of Virginia revenue stamps and the dealer discounts for the Virginia Fuels Taxes and the Motor Vehicle Fuel Sales Tax are not affected by these Acts.

Effective: Beginning with the June 2010 return

Repeal of the 2009 Change to Returns and Remittances of Certain Dealers

The Fifth Enactment of House Bill 29 (Chapter 872) and the Fifth Enactment of House Bill 30 (Chapter 874) repeal the revised schedule for remittance to the Commonwealth of Retail Sales and Use Tax collected by dealers with annual taxable sales of $12 million or greater in the previous calendar year that was to begin June 20, 2010, as mandated by House Bill 1600, the Appropriations Act for the 2008-10 Biennium (*Acts of Assembly* 2009, Chapter 781, Enactment Clause 4), which amended *Va. Code* § 58.1-615.1, effective May 31, 2010.

Beginning with the month of June, affected dealers would have remitted any tax due and would have filed a Retail Sales and Use Tax return (i) for the first fifteen days of the month, on or before the 20th of the same month, and (ii) for the remaining days in the month, on or before the 20th day of the following month.

Under current law, every dealer required to collect or pay the Retail Sales and Use Tax shall, on or before the twentieth day of the month, file a Retail Sales and Use Tax return for the preceding calendar month and remit any tax due. A dealer may be required by the Tax Commissioner to file returns on an accounting period less frequent than monthly when, in the opinion of the Tax Commissioner, the administration of the taxes imposed by this chapter would be enhanced. If a dealer is required to file other than monthly, each such return shall be due on or before the 20th day of the month following the close of the period. Each such return shall contain all information required for monthly returns.

Effective: For the June 2010 return
Repealed: § 58.1-615.1

Change in the Treatment of Sellers and Installers of Countertops

Senate Bill 57 (Chapter 119) treats dealers who sell and install countertops as retailers for purposes of the Retail Sales and Use Tax. As such, affected dealers must collect the tax from purchasers of countertops, rather than paying the tax on their purchases of materials. In addition, fabricators of countertops who are also deemed "retailers" by virtue of this Act are authorized to claim the manufacturing exemption on purchases of equipment and machinery, raw materials, fuels, and other materials that are used directly in the fabrication.

Under current law, dealers operating in a dual capacity of selling countertops at retail and selling and installing countertops in real property construction contracts must collect the tax on their retail sales of countertops sold but not installed and pay the tax on the cost price of the countertops they sell and install.

Virginia law generally treats businesses as contractors if they sell and install tangible personal property that becomes real property after installation. The law makes an exception for such business and allows them to be treated as retailers if they (i) sell and install certain specified items, including fences, venetian blinds, window shades, awnings, storm windows and doors, floor coverings, cabinets, kitchen equipment, window air conditioning units, or other like or comparable items, and (ii) maintain a retail or wholesale place of business and an inventory of the items set forth above, and (iii) perform installation as part of or incidental to the sale of the items set forth above. As retailers, they are authorized to collect Retail Sales and Use Tax from their customers on the sale of these items. Separately stated installation charges are exempt from the tax. If a person does not meet all three requirements of a retailer, as set forth above, he will be deemed a contractor and must pay the sales tax on such items at the time of purchase or accrue use tax, even if he is making sales of fences, venetian blinds, or any of the items separately identified above. This policy applies whether the seller and installer is also a fabricator of the tangible personal property items listed above.

A person deemed a "retailer" of the items set forth above, and who fabricates such items also qualifies for the manufacturing exemption set forth in *Va. Code* § 58.1-609.3. The law provides an exemption from the Retail Sales and Use Tax for industrial materials for future manufacturing and processing into articles of tangible personal property for resale, where such industrial materials either enter into the production of or become a component part of the finished product. The exemption is also available for machinery, tools, or repair parts, fuel, power, energy or supplies used directly in manufacturing or processing. Because sales made by these "retailers" are deemed retail sales, the preponderance of use test, which is necessary in order for the manufacturing exemption to apply, is satisfied.

While retailers are generally treated differently from contractors with respect to the Retail Sales and Use Tax, both retailers and contractors are deemed the users or consumers of supplies used in installing tangible personal property that becomes real property after installation. Therefore, retailers and contractors must pay tax on their purchases of tacks, stripping, glue, cement, and other supplies they purchase.

Effective: Applicable to taxable transactions occurring on or after July 1, 2010 or contracts initially entered into on or after that date.
Amended: § 58.1-610

Expansion of the Exemption for Qualifying Data Centers

Three Acts expand the availability of the exemption for qualifying data centers.

First, House Bill 302 (Chapter 826) and Senate Bill 130 (Chapter 784) expand the exemption from the Retail Sales and Use Tax to include enabling software, chillers, and backup generators in the existing exemption for computer equipment and enabling hardware purchased or leased for the processing, storage, retrieval, or communication of data, including but not limited to servers, routers, connections and other enabling hardware. The expanded exemption applies beginning July 1, 2010 and ending June 30, 2020.

In order to be eligible for this exemption, prior law required that the computer equipment and enabling software and hardware must be purchased or leased for use in a data center located in a Virginia locality that results in a new investment of at least $150 million on or after January 1, 2009 and creates at least 50 new jobs paying at least one and one-half the prevailing average wage in the locality on or after July 1, 2009. The investment must be made in accordance with a memorandum of understanding with the Virginia Economic Development Partnership Authority. Purchased or leased upgrades, additions to, or replacement of such equipment and enabling software are also exempt. The Acts change the date from January 1, 2009, to July 1, 2009.

However, the exemption provided under current law is not available until July 1, 2010 and has no refund provision for purchases made after July 1, 2009 and prior to July 1, 2010. These Acts also provide that persons qualifying for the proposed exemption are eligible for a grant after July 1, 2010 of any Retail Sales and Use Tax imposed and paid for purchases or leases of such computer equipment and enabling software made on and after July 1, 2009, and before July 1, 2010.

Second, House Bill 1298 (Chapter 886) relaxes the job creation requirement, from 50 to 25 jobs, in order for a datacenter to qualify for the Retail Sales and Use Tax datacenter exemption. The datacenter must be located in a locality that has an unemployment rate for the preceding year of at least 150 percent higher than the average statewide unemployment rate or is located in an enterprise zone.

Effective: July 1, 2010
Amended: §§ 58.1-609.3 and 58.1-609.10

Repeal of the Triennial Census for Local Distributions of the State Tax

House Bill 669 (Chapter 629) and Senate Bill 413 (Chapter 386) eliminate the requirement that every three years a census of all school-age persons residing within each school division take place. The Acts also amend the procedure regarding sales and use tax distribution to localities so that, beginning July 1, 2012, distribution is based on the data provided by the Weldon Cooper Center for Public Service at the University of Virginia (Cooper Center) rather than the school age population of a school division based on a triennial census.

The Acts provide that the population estimates include individuals ages 5 through 19 and should account for persons who: (1) are domiciled in orphanages or charitable institutions or who are dependents living on any federal military or naval reservation or other federal property within the school division in which the institutions or federal military or naval reservation or other federal property is located; (2) are members of the military services who are under 20 years of age within the school division in which the parents or guardians of such persons legally reside; (3) are confined in state hospitals, state training schools or state training centers for the mentally retarded, mental institutions, or state or federal correctional institutions or who attend the Virginia School for the Deaf and the Blind within the school division in which the parents or guardians of such persons legally reside; and (4) attend institutions of higher education within the school division in which the student’s parents or guardians legally reside. In addition, the population of students with disabilities, ages two through four and 20 through 21, is also added by the Department of Education (DOE) to the Cooper Center estimates. These changes align the proposed methodology for such estimates with the previous triennial census count.

The Acts establish an annual cap of $115,000 in costs for the Cooper Center to prepare the population estimates. The cost of this service is deducted from the amount appropriated for state sales and use tax distribution to localities based on school age population with the net amount of funding after such payments to be distributed to localities. The Cooper Center will provide DOE the yearly population estimates by June 30 of each year.

Effective: July 1, 2010
Amended: §§ 15.2-3207, 15.2-3525, 15.2-3806, 15.2-3906, 15.2-4105, 22.1-261, 37.2-713, 58.1-605, and 58.1-638

COMMUNICATIONS SALES AND USE TAX

Prepaid Wireless E-911 Fee

House Bill 754 (Chapter 566) and Senate Bill 441 (Chapter 466) repeal the current E-911 fee on prepaid wireless service and impose a new prepaid wireless E-911 fee of $0.50 on each retail purchase of prepaid wireless calling service. The fee is collected at the point of sale by retail merchants or the service provider and administered by TAX like the Retail Sales and Use Tax. Each wireless service carrier and reseller will continue to collect a surcharge of $0.75 per month from each of its postpaid customers through its regular billing.

In lieu of collecting the prepaid wireless E-911 fee from customers, a retail merchant may absorb such charges for a temporary period and become solely liable for the prepaid wireless E-911 fee on all retail sales of prepaid wireless calling service, provided that the Tax Commissioner has granted the retail merchant written authorization to absorb the prepaid wireless E-911 fee for such period. The retail merchant is not allowed to advertise or hold out to the public that he will absorb or relieve the customer of all or any part of the fee.

The fee is administered by TAX like the Retail Sales and Use Tax. However, the administration of the new prepaid wireless E-911 fee differs from the Retail Sales and Use Tax in several respects. Under the prepaid wireless E-911 fee, the retail merchant is not liable for fee amounts not remitted by the customer. Retail merchants are responsible for remitting any prepaid wireless E-911 fee that they actually collect. Also, these Acts provide a dealer discount of 5% of the prepaid wireless E-911 fee collected by the retail merchant or the service provider as compensation. In addition, the prepaid wireless E-911 fee amount may be either separately stated on the invoice or receipt, or otherwise disclosed to the customer by the retail merchant.

TAX is required to develop and publish guidelines for the new prepaid wireless E-911 fee. The guidelines will include provisions for TAX to waive requirements, such as separately stating the prepaid wireless E-911 fee, for "small dealers." The guidelines will define “small dealer,” in whole or in part, based upon the sales of prepaid wireless calling services made by a dealer.

The Acts also provide that the rate of the prepaid wireless E-911 fee will increase or decrease proportionately with any changes to the E-911 fee on postpaid wireless service. TAX is required to provide notice of the rate change on its website at least 30 days before the effective date of any change in the fee rate.

Before these Acts, a wireless E-911 surcharge administered by the Wireless E-911 Services Board was imposed on both postpaid and prepaid wireless service with the revenues deposited into the Wireless E-911 Fund. The revenues from the new prepaid wireless E-911 fee will also be deposited into the Wireless E-911 Fund.

Effective: January 1, 2011
Amended: §§ 56-484.12 and 56-484.17
Added: § 56-484.17:1

Local Distributions from the Communications Sales and Use Tax Trust Fund

House Bill 765 (Chapter 365), House Bill 1090 (Chapter 285) and Senate Bill 381 (Chapter 385) allow any locality to request a ruling from TAX adjusting its distribution from the Communications Sales and Use Tax Trust Fund (“Fund”) so long as the aggregate redistribution from all other localities does not exceed $100,000. A locality is required to present evidence to TAX that it collected telecommunications or television cable funds in Fiscal Year 2006 from repealed local communications taxes and fees before obtaining a ruling from TAX.

This Act also sets the percentage share of the Fund for each locality as the percentage share that the locality received from the Fund in Fiscal Year 2010, except that certain localities would receive monthly distributions from the Communications Sales and Use Tax Trust Fund as if the Auditor of Public Accounts had certified that a locality had received a specified amount from the repealed local communications taxes and fees in Fiscal Year 2006. Specifically:

- House Bill 1090 (Chapter 285) and Senate Bill 381 (Chapter 385) specify that Tazewell County would receive monthly distributions as if it had received $650,507 in 2006. Tazewell County reported receiving $435,231 from the cable franchise fee in Fiscal Year 2006.
- House Bill 765 (Chapter 365) specifies that Accomack County would receive monthly distributions as if it had received $1,111,376 in 2006. Accomack County reported receiving $1,027,210 from the cable franchise fee in Fiscal Year 2006.
- House Bill 765 (Chapter 365) specifies that Northampton County would receive monthly distributions as if it had received $549,025 in 2006. Northampton County reported receiving $525,657 from the cable franchise fee in Fiscal Year 2006.

Under House Bill 568, revenue from the Communications Sales and Use Tax, the Landline E-911 Tax and the Cable Television Rights-of-Way Fee (the “Communications Taxes”) is collected and remitted monthly by communications services providers to TAX and deposited into a non-reverting fund known as the Communications Sales and Use Tax Trust Fund (the “Fund”). After transferring moneys from the Fund to TAX to pay for the direct costs of administering the Communications Taxes, the moneys in the Fund are allocated and distributed to localities after payment (1) to the Department of Deaf and Hard-of-Hearing to fund the telephone relay service center and (2) any franchise fee amount due to localities in accordance with any cable television franchise agreements in effect as of January 1, 2007.

Localities may currently report to TAX any telecommunications or television cable funds collected in Fiscal Year 2006 from repealed local communications taxes and fees that were not submitted, or were incorrectly submitted, to the Auditor of Public Accounts in order to receive, or correct, monthly distributions from the Communications Sales and Use Tax Trust Fund. A locality may report such telecommunications or television cable funds to TAX by either an audited financial statement or a statement of receipts verified in writing by an independent certified public accountant.

Effective: July 1, 2010
Amended: § 58.1-662

CIGARETTE AND OTHER TOBACCO TAXES

Reducing and Simplifying the Penalties for Unstamped Cigarettes

House Bill 820 (Chapter 35) and Senate Bill 476 (Chapter 471) reduce and simplify the penalties related to unstamped cigarettes. The Acts provide that stamping agents who fail to properly affix revenue stamps are required to pay a penalty of $2.50 per pack, up to $500, for the first violation by a legal entity within a 36 month period, $5 per pack, up to $1,000, for the second violation by the legal entity within a 36 month period, and $10 per pack, up to $50,000, for the third or subsequent violation by the legal entity within a 36 month period. The stamping agent is required to pay a civil penalty of $25 per pack, up to $250,000, where willful intent exists to defraud. Persons other than stamping agents who sell, purchase, transport, receive, or possess unstamped cigarettes, except as otherwise provided by law, are also subject to the same civil penalties.

Effective: July 1, 2010
Amended: §§ 58.1-1013 and 58.1-1017

Changes to Tobacco Products Tax Regarding Moist Snuff and Loose Leaf Tobacco

House Bill 626 (Chapter 191) and Senate Bill 478 (Chapter 804) impose the tobacco products tax on moist snuff at the rate of $0.18 per ounce based on net weight. Moist snuff is defined as any finely cut, ground, or powdered tobacco that is not intended to be smoked but shall not include any finely cut, ground, or powdered tobacco that is intended to be placed in the nasal cavity.

The Acts also impose the tobacco products tax on loose leaf tobacco at $0.21 for each unit that is less than 4 ounces, $0.40 for each unit that is at least 4 ounces but not more than 8 ounces, and $0.70 for each unit more than 8 ounces. Other units are taxed by net weight at $0.21 per unit plus $0.21 for each 4 ounce increment that the unit exceeds 16 ounces. Loose leaf tobacco is defined as any leaf tobacco that is not intended to be smoked, but would not include moist snuff.

Previously, the tobacco products tax was imposed on all tobacco products was imposed at the rate of 10% of the manufacturer's sales price. The Act changes the tax rate only for moist snuff and loose leaf tobacco, leaving the tax rate on all other tobacco products unchanged at 10% of the manufacturer's sales price.

The Acts also require manufacturers shipping tobacco products into the Commonwealth to file a monthly report with TAX with the names and addresses of the persons receiving the shipments, and the type of product, brand, and quantities of tobacco products that were shipped. The Tax Commissioner may authorize a manufacturer to file such reports less frequently than monthly.

Effective: January 1, 2011
Amended: §§ 58.1-1021.01, 58.1-1021.02, and 58.1-1021.03
Added: § 58.1-1021.02:1

Expanding the Time Allowed for Affixing Revenue Stamps to Cigarettes

House Bill 874 (Chapter 701) changes the time allowed for stamping agents to affix revenue stamps to cigarette packs from one business day after receipt to just prior to shipping to other wholesale dealers or retail outlets.

The Cigarette Tax is paid by wholesale dealers who have obtained a stamping agent permit from the Department of Taxation through the purchase of stamps, which must be affixed to each container from which cigarettes are sold. A discount equal to two percent of the purchase price of the Virginia revenue stamps is available to stamping agents.

Previously, stamping agents had to affix stamps to unstamped cigarettes within one business day of receipt. The law also provided that stamping must be continued with reasonable diligence by the stamping agent. Any wholesale dealer engaged in interstate business was able to set aside an amount of unstamped cigarettes necessary for the conduct of such business without affixing the stamps. However, unstamped cigarettes had to be kept entirely separate from stamped cigarettes in such a manner as to prevent commingling.

Effective: July 1, 2010
Amended: § 58.1-1003

MOTOR VEHICLE FUEL SALES TAX

Disclosure of Information

House Bill 457 (Chapter 34) authorizes the Tax Commissioner to provide the Executive Director of the Northern Virginia Transportation Commission, for his confidential use, such tax information that may be necessary to facilitate the collection of the Motor Vehicle Fuel Sales Tax. Similar authority already exists for the Executive Director of the Potomac and Rappahannock Transportation Commission.

Under *Va. Code* § 58.1-3, the Tax Commissioner may not divulge tax information except in certain circumstances. In addition to the Executive Directors of the two transportation commissions mentioned above, the Tax Commissioner is authorized to divulge tax information to any commissioner of the revenue, director of finance or other similar collector of local taxes who, for the performance of his official duties, provides a written request.

Effective January 1, 2010, the Motor Vehicle Fuel Sales Tax is collected by distributors of fuels at the rate of 2.1 percent of the sales price charged by the distributor to any retail dealer for retail sale in the Northern Virginia Transportation District and the Potomac and Rappahannock Transportation District. The revenue from the tax is distributed monthly to the appropriate district and used for transportation needs within the district.

The member localities of the Northern Virginia Transportation District are the Counties of Arlington, Fairfax and Loudoun and the Cities of Alexandria, Fairfax, and Falls Church; and the member localities of the Potomac and Rappahannock Transportation District are the Counties of Prince William and Stafford and the Cities of Fredericksburg, Manassas and Manassas Park. Spotsylvania County joined the Potomac and Rappahannock Transportation District effective February 15, 2010.

Effective: July 1, 2010
Amended: § 58.1-3

Definitions of "Gross Sales" and "Sales Price"

House Bill 1329 (Chapter 441) defines "gross sales" and "sales price" for purposes of the Motor Vehicle Fuel Sales Tax imposed in the Northern Virginia Transportation District and the Potomac and Rappahannock Transportation District. "Gross sales" is defined the same as for the purposes of the Retail Sales and Use Tax and excludes separately stated federal diesel excise taxes. "Sales price" is defined the same as for the purposes of the Retail Sales and Use Tax, except that all transportation and delivery charges are included, even those separately stated.

Currently, TAX uses the Retail Sales and Use Tax definition for "sales price," which excludes separately stated transportation charges. Separately stated federal diesel excise taxes are also excluded from "gross sales."

Effective: July 1, 2010
Amended: § 58.1-1718.1

LOCAL TAX

LEGISLATION

TANGIBLE PERSONAL PROPERTY TAX

Expands the Definition of Qualifying Vehicles for Car Tax Relief

House Bill 228 (Chapter 499) expands the pool of "qualifying vehicles" that are eligible for personal property tax relief by removing the requirement that a vehicle held in trust can only qualify if there is no more than one beneficiary.

The Personal Property Tax Relief Act of 1998 ("PPTRA") was enacted to eliminate the tangible personal property tax imposed on the first $20,000 of value on "qualifying vehicles." The term qualifying vehicle is currently defined as any passenger car, motorcycle, and pickup or panel truck that is determined by the commissioner of the revenue of the county or city in which the vehicle has situs to be (i) privately owned; (ii) leased pursuant to a contract requiring the lessee to pay the tangible personal property tax on such vehicle; or (iii) held in a private trust for nonbusiness purposes by an individual beneficiary. The Act modifies the last requirement to permit more than a single beneficiary of the private trust.

Effective: July 1, 2010
Amended: § 58.1-3523

REAL ESTATE TAX

Voter Referendum to Amend Constitution to Establish Income or Financial Worth Limitations for Real Property Tax Relief for Elderly or Disabled

House Bill 16 (Chapter 490), Senate Bill 547 (Chapter 678), House Joint Resolution 11 (Chapter 770) and Senate Joint Resolution 97 (Chapter 775) provide for a voter referendum at the November 2, 2010 election to approve or reject a constitutional amendment to Article X, Section 6 of the *Constitution of Virginia.* The amendment would authorize the General Assembly to permit localities to establish their own income or financial worth limitations for purposes of granting property tax relief for homeowners who are 65 years of age or older, or permanently and totally disabled.

The *Constitution of Virginia* currently grants the General Assembly the power to authorize localities to adopt exemption and deferral programs for the elderly or handicapped to provide tax relief for persons sixty-five years of age or older and for those who are permanently and totally disabled. Localities may elect to adopt an exemption program, a deferral program, a combination of both, or none of the above. Income and net financial worth restrictions were incorporated in the exemption and deferral programs to direct tax relief to those whose incomes and financial worth are sufficiently low to merit such relief.

In order to qualify for a real estate tax exemption or deferral, an elderly or disabled individual's total combined gross income from all sources, including the income of relatives living in the dwelling and, at the option of each locality, nonrelatives living in the dwelling that are not tenants or paid caregivers, may not exceed $50,000 during the previous year. Any amount up to $10,000 of income of each person who does not qualify for the exemption and is not the spouse of an owner living in they dwelling may be excluded from the total combined gross income. The net combined financial worth of the applicant and spouse may not exceed $200,000, but localities may annually increase net worth limitations by a percentage equal to the Consumer Price Index to account for inflation.

Several localities are authorized to increase their income limits to amounts ranging from $67,000 to $75,000, and their net worth limits to amounts ranging from $350,000 to $540,000.

Effective: July 1, 2010
Amended: Article X, Section 6 of the *Constitution of Virginia*

Voter Referendum to Amend Constitution to Provide an Exemption from Taxation for the Real Property of Certain Veterans

House Bill 149 (Chapter 358), Senate Bill 31 (Chapter 588), House Joint Resolution 33 (Chapter 771) and Senate Joint Resolution 13 (Chapter 773) provide for a voter referendum at the November 2, 2010 election to approve or reject a constitutional amendment to Article X, Section 6 of the *Constitution of Virginia*, which would authorize the General Assembly to exempt from taxation real property that is the principal residence of a veteran (or widow or widower of a veteran) if the veteran has been determined by the United States Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100 percent combat-related, permanent, and total disability.

The *Constitution of Virginia* currently grants the General Assembly the power to authorize localities to adopt exemption and deferral programs for the elderly or handicapped to provide tax relief for persons sixty-five years of age or older and for those who are permanently and totally disabled. Localities may elect to adopt an exemption program, a deferral program, a combination of both, or none of the above. Income and net financial worth restrictions were incorporated in the exemption and deferral programs to direct tax relief to those whose incomes and financial worth are sufficiently low to merit such relief.

Effective: July 1, 2010
Amended: Article X, Section 6 of the *Constitution of Virginia*

Limitation on Annual Tax Levied on Property in Service Districts

House Bill 200 (Chapter 212) limits the application of the annual tax levied upon property in a service district to only those specific classes of property that the locality deems benefit from the governmental services provided as a result of the annual tax.

Virginia law authorizes any locality to create service districts within the locality by ordinance. Service districts provide additional, more complete or more timely services of government than are desired in the locality or localities as a whole. Localities seeking to create a service district must conduct a public hearing prior to the district's creation. The ordinance establishing the service district must include the name and boundaries of the proposed district; specify any areas within the district that are to be excluded; describe the purposes of the district and the facilities and services proposed within the district; describe a proposed plan for providing such facilities and services within the district; and describe the benefits which can be expected from the provision of the proposed facilities and services within the district.

Upon passage of an ordinance creating a service district, localities are statutorily granted several powers with respect to these districts. Among these powers, localities may levy and collect an annual tax on any property in the service district that is subject to local taxation to pay for the expenses and charges for providing certain governmental services to the locality, such as water supply, garbage removal and disposal, and transportation. The tax may be levied on taxable real estate zoned for residential, commercial, industrial, or other uses, or any combination of such use classification, within the boundaries of the service district. The annual tax may not be levied to pay for schools, police, or general government services. Proceeds from the tax must be allocated to the district in which the funds were raised.

Effective: July 1, 2010
Amended: § 15.2-2403

Changes to Real Property Tax Assessment Structure

House Bill 233 (Chapter 824) and Senate Bill 273 (Chapter 791) require that real property that is generating income as affordable housing be assessed using the income approach, based on the property's current use, any income restrictions on the property, and any arms length contract provisions entered into with respect to the real property.

Under current law, owners of real property containing more than four residential units operated in whole or in part as affordable housing may apply to the locality to have the real property assessed under special rules for affordable housing, provided certain requirements are met.

The *Constitution of Virginia* requires that all property be subject to tax, that all taxes be levied and collected under general laws, and that all taxes be uniform upon the same class of subjects within the territorial limits of the authority levying the tax. Article X, Section 2 of the *Constitution of Virginia* requires all assessments of real estate and tangible personal property be made at their fair market value, and authorizes the General Assembly to define and separately classify certain real estate, depending upon its use.

Current law recognizes three methods that may be used for assessing real estate: 1) the sales comparison method (market approach); 2) the replacement cost less depreciation method (cost approach); and 3) the capitalization of income method (income approach). The capitalization of income method values the property as the net present value of the future stream of income that will be generated by the property. Currently, there is no mandate as to which of the three approaches to use in making the assessment.

This Act requires that real property generating income as affordable housing be assessed using the income approach based on the property's current use, any income restrictions on the property, and any arm length contract provisions entered into with respect to the real property, including, but not limited to restrictions on the transfer of title or other restraints on alienation of the real property. As federal or state income tax credits are not considered real property or income attributable to real property, assessors are prohibited from considering them in determining the income that is generated by the property. The assessor is still required to consider the rent and the impact of applicable rent restrictions; the operating expenses and expenditures and the impact of any such additional expenses or expenditures; and any restrictions on the transfer of title or other restraints on alienation of the real property in determining the potential income the property generates.

Effective: Tax years beginning on or after January 1, 2011.
Amended: § 58.1-3295

Changes to Real Property Tax Assessment Procedures

House Bill 430 (Chapter 552) 1) sets forth additional requirements an appraiser must satisfy in order to be certified by TAX to perform assessments or reassessments of real property; 2) changes the presumption for determining whether a locality has failed to assess at 100% of fair market value; 3) changes the methodology for assessing affordable rental housing containing more than four residential units; 4) requires an assessing officer to furnish certain information regarding the methodology employed in his calculation of a property's assessed value upon request by the taxpayer; 5) requires an assessing officer to provide 14 days notice to the taxpayer concerning a request to increase the assessment on certain real property prior to the hearing on a taxpayer's complaint that the property is over-assessed or that the assessment was not uniform; and 6) specifies the composition of boards of equalization and panels thereof in any locality with a population in excess of 100,000.

<u>Assessor Qualifications</u>

Under current law, real estate assessors and appraisers must receive a valid certification issued by TAX in order to perform assessments or reassessments of real property for any locality. TAX has established certification requirements and qualifications that vary among the different personnel performing real estate appraisals and assessments, and offers training and continuing education credit hours for real estate assessors.

In addition to the current training and certification requirements, this Act requires that real estate assessors and appraisers receive training in conducting appraisals of certain multi-unit real estate and training in following generally accepted appraisal practices in order to be certified by TAX to perform local real estate assessments.

Sales Assessment Ratio

Under current law, all general reassessments or annual assessments must be made at 100% fair market value. A locality that fails to meet this requirement may forfeit its share of the net profits derived from operation of the alcoholic beverage control system. If the locality has a sales assessment ratio lower than 70% for the year in which the general reassessment or annual assessment is effective, this constitutes prima facie proof that the locality has failed to assess at 100% of fair market value. The sales assessment ratio is derived by dividing the assessed value of property by its selling price.

In addition to the 70% threshold, this Act establishes that when a locality's sales assessment ratio exceeds 130%, this constitutes prima facie proof that the locality has failed to assess at 100% of fair market value.

Assessments

The *Virginia Constitution* requires that all property be subject to tax, and that all taxes be uniform upon the same class of subjects within the territorial limits of the authority levying the tax. Article X, Section 2 of the *Constitution* requires all assessments of real estate and tangible personal property be made at their fair market value, and authorizes the General Assembly to define and separately classify certain real estate, depending upon its use.

Currently, three methods may be used to assess real estate: 1) the sales comparison method (market approach); 2) the replacement cost less depreciation method (cost approach); and 3) the capitalization of income method (income approach). The capitalization of income method values the property as the net present value of the future stream of income that will be generated by the property. Currently, there is no mandate as to which of the three approaches to use in making the assessment.

This Act mandates that real property containing more than four residential units that is generating income as affordable rental housing be assessed using the income approach, based on the property's current use, any income restrictions on the property, and the provisions of any arms length contract entered into with respect to the property.

Federal or state income tax credits are not considered income for purposes of determining the value of the applicable rental property.

Under this Act, the assessing officer must furnish information regarding the methodology employed in the calculation of a property's assessed value upon a taxpayer's request. The officer must furnish the capitalization rate used to determine the property's value, a list of comparable properties or sales figures considered in the valuation, and any other factors considered in determining the value of the property, unless the disclosure of such information is otherwise prohibited. Failure to furnish this information within a specified time will preclude the assessing official and the local government from introducing this information during the proceeding.

Boards of Equalization

Circuit courts within each county or city may appoint a three-to-five member Board of Equalization, which is authorized to increase or decrease assessments in response to complaints regarding errors in real property assessments. Members must be residents of the county or city in which they will serve and must be appointed from the citizens of the county or city. Thirty percent of the members of the board must be commercial or residential real estate appraisers, other real estate professionals, builders, developers, or legal or financial professionals. Board members are also required to attend a course given by TAX, and periodically take continuing education instruction provided by the Tax Commissioner.

Under this Act, in a locality with a population that exceeds 100,000, thirty percent of the members of the board must be commercial or multifamily residential real estate appraisers who are licensed and certified by the Virginia Real Estate Appraiser Board to serve as general real estate appraisers, other commercial or multifamily real estate professionals or licensed commercial or multifamily real estate brokers, builders, developers, active members of the Virginia Bar, or other legal or financial professionals with knowledge of the valuation of property, real estate transactions, building costs, accounting finance or statistics. The Act defines commercial or residential property as any property that is either operated as or zoned for use as commercial, industrial, or multifamily residential rental property.

Further, this Act provides that in cases to correct erroneous assessments before a Board of Equalization or a circuit court, if, within at least five days prior to such action, the assessing officer does not furnish information that is required to be disclosed or made available for inspection and copying, the assessing official and the local government may not introduce this information or use it in any such appeal.

The Act also provides that in cases before the board in which the local assessing officer requests that the board increase the assessment after the taxpayer files an appeal to the board on a commercial, multifamily residential or industrial property, the local officer must notify the taxpayer of the request not less than 14 days prior to the hearing. If the taxpayer contests the increase, the assessor must either withdraw the request or provide the board an appraisal performed by an independent contractor, licensed and certified by the Virginia Real Estate Appraiser Board to serve as a general real estate appraiser, and who affirms that the increase in value represents the property's fair market value as of the date of the disputed assessment. The assessor is excused from these requirements if the requested increase is based on mistakes of fact or if the information on which the commissioner or other officer based the requested increase was available to, but not provided by, the taxpayer in response to a request for information made by the commissioner or other officer at the time the challenged assessment was made.

Evidentiary Standard to Correct Erroneous Assessments

During a Board of Equalization hearing, the owner of the real property has the burden of proving that the property in question is valued at more than its fair market value, that the assessment is not uniform in its application, or that the assessment is otherwise not equalized. Under current law, the taxpayer must produce substantial evidence that the assessor's valuation is erroneous and was reached in accordance with generally accepted appraisal practice in order to receive relief.

In addition to these requirements, this Act requires that the owner show the valuation was not reached in accordance with generally accepted procedures, rules and standards as prescribed by nationally recognized professional appraisal organizations.

Effective: July 1, 2010
Amended: § 58.1-3258.1. 58.1-3259, 58.1-3295, 58.1-3331, 58.1-3374, 58.1-3379

Creates Separate Classifications for Certified Renewable Energy Manufacturing Equipment

House Bill 999 (Chapter 849) and Senate Bill 656 (Chapter 264) create a separate classification of property for purposes of the Real Property Tax for improvements to real property designed and used primarily for the purpose of manufacturing a product from renewable energy. Localities may levy their local Real Property Tax on such improvements at a rate that does not exceed the rate levied on other real property in the locality. This Act also creates a separate classification of property for purposes of the Tangible Personal Property Tax for tangible personal property designed and used primarily for the purpose of manufacturing a product from renewable energy. Localities are permitted to levy their Tangible Personal Property Tax on such property at a rate that does not exceed the rate levied on the general class of tangible personal property in the locality.

The *Constitution of Virginia* authorizes the General Assembly to define and classify taxable subjects and to segregate the several classes of property so as to specify and determine upon what subjects state and local taxes may be levied.

Current law deems real estate as one class of property subject to the same rate of tax. In the 2002 and 2003 General Assembly sessions, however, separate classifications of real property were created composed of improvements to real property located in the Cities of Fairfax and Roanoke. In 2007, the General Assembly created additional separate classifications of real property for real property used for or zoned to permit commercial or industrial uses in the counties and cities embraced by the Northern Virginia and Hampton Roads Transportation Authorities, as well as a separate classification of real property for energy-efficient buildings.

Currently, there are forty categories of property that are classified as separate classes of property for purposes of the Tangible Personal Property Tax. Thirty-five of these categories may be taxed at a rate not to exceed the general rate imposed on tangible personal property; four may be taxed at a rate not to exceed the general rate imposed on machinery and tools; and one may be taxed at a rate equal to the general rate imposed on real property.

"Renewable energy" is currently defined as energy derived from sunlight, wind, falling water, biomass, sustainable or otherwise, energy from waste, municipal solid waste, wave motion, tides, and geothermal power, and does not include energy derived from coal, oil, natural gas or nuclear power. Renewable energy also includes the proportion of the thermal or electric energy from a facility that results from the co-firing of biomass.

Effective: July 1, 2010
Amended: § 58.1-3506
Added: § 58.1-3221.4

Agricultural and Forestal Districts; Noncontiguous Parcels

Senate Bill 81 (Chapter 653) allows certain noncontiguous parcels of land that currently are not part of an individual forestal, agricultural, or forestal and agricultural district of local significance to be included in that district if the nearest boundary of the noncontiguous parcel is within one-quarter of a mile of the core contiguous properties that constitute the district and was previously included in an individual forestal, agricultural, or forestal and agricultural district of local significance.

Under current law, localities that participate in a local district program may authorize owners of land to apply to create an agricultural, forestal, or an agricultural and forestal district within the locality. This land is subject to the real property tax at a lower rate than the rate applicable to other real property. Thus, localities encourage conservation by providing tax relief to the owner of real estate devoted solely to agricultural, horticultural, forest, or open-space use. In valuing land at its use value, the assessing officer considers only the value of the real estate based on its current use. The assessing officer does not consider the fair market value of the land at its most profitable use.

Owners of real property situated in a locality that has adopted a land-use plan and ordinance providing for use value assessment may apply to their local assessing officer for taxation of their real property on the basis of use value. Once approved, these owners must devote a minimum number of acres of real property to agricultural, horticultural, forest, or open-space use.

Effective: July 1, 2010
Amended: § 15.2-440 and § 58.1-3233

TRANSIENT OCCUPANCY TAX

Allows Allegheny County to Impose Transient Occupancy Tax at Increased Rate

House Bill 370 (Chapter 505) adds Allegheny County to the list of localities that are currently authorized to impose a transient occupancy tax at a maximum rate of five percent. Revenues from the portion of the tax in excess of two percent must be used solely for tourism or marketing of tourism.

Under current law, any county may impose a transient occupancy tax at a maximum rate of two percent upon the adoption of an ordinance, on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms. The tax applies to rooms rented on a continuous basis by the same individual or group for 30 or more continuous days, and applies only to rooms that are intended or suitable for dwelling and sleeping. Therefore, the tax is not imposed on rooms used for alternative purposes, such as banquet rooms and meeting rooms.

Currently, Virginia law identifies thirty-seven counties that may impose a transient occupancy tax at a maximum rate of five percent. The revenues for the portion of the tax over two percent must be designated and spent solely for tourism, marketing of tourism, or initiatives that attract travelers to the locality and generate tourism revenues in the locality. Several additional counties are authorized to impose additional transient occupancy taxes, at rates separately specified by statute, the funds of which are allocated to promoting tourism, business travel, and other specified projects within the counties.

Effective: July 1, 2010
Amended: § 58.1-3819

Limitations on the Imposition of Transient Occupancy Tax in Fairfax County

House Bill 972 (Chapter 116) and Senate Bill 218 (Chapter 660) provide that any additional transient occupancy tax or any increase in the rate of an existing transient occupancy tax that is first imposed on or after July 1, 2010 in Fairfax County does not apply within the limits of any town located in Fairfax County, unless the governing body of the town consents.

Under current law, any county may impose a transient occupancy tax at a maximum rate of two percent, upon the adoption of an ordinance, on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms. The tax, however, does not apply to rooms rented on a continuous basis by the same individual or group for 30 or more continuous days. The tax applies to rooms intended or suitable for dwelling and sleeping, but does not apply to rooms used for alternative purposes, such as banquet rooms and meeting rooms.

The Virginia Code specifically enumerates several counties that are authorized to impose a transient occupancy tax at a higher rate, or that may impose an additional transient occupancy tax. Currently, Fairfax County is authorized to impose an additional transient occupancy tax at a maximum rate of two percent of the charge for occupancy of any room, provided that the board of supervisors of Fairfax County appropriates the additional revenue as follows: 1) no more than 75% of such revenues is designated for tourism promotion; and 2) the remaining portion of such revenues is designated for a nonprofit convention and visitor's bureau. Currently, Fairfax County imposes a transient occupancy tax at a total rate of four percent.

Effective: July 1, 2010
Added: § 58.1-3824.1

BUSINESS, PROFESSIONAL & OCCUPATIONAL LICENSE TAX

Requirement for Contractors to be Licensed by the Commonwealth before Obtaining a Business License

House Bill 409 (Chapter 82) and House Bill 713 (Chapter 755) require that any contractor applying for or renewing a business license in any locality must furnish either (i) satisfactory proof that he is duly licensed or certified by the Commonwealth to carry out or superintend the same, or (ii) a written statement supported by an affidavit that he is not subject to licensure or certification.

The Business, Professional and Occupational License (BPOL) tax is a tax on businesses for the privilege of engaging in business at a definite place of business within a Virginia locality. The measure or basis of the BPOL tax generally is the gross receipts of the business. The BPOL tax is a tax on gross receipts, not net income.

Under current law, the state requires licenses of contractors in the following classes:

- o Class A contractors perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is $120,000 or more, or (ii) the total value of all such construction, removal, repair, or improvements undertaken by such person within any 12-month period is $750,000 or more.
- o Class B contractors perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is $7,500 or more, but less than $120,000, or (ii) the total value of all such construction, removal, repair or improvements undertaken by such person within any 12-month period is $150,000 or more, but less than $750,000.
- o Class C contractors perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is over $1,000 but less than $7,500, or (ii) the total value of all such construction, removal, repair, or improvements undertaken by such person within any 12-month period is less than $150,000.

Effective: July 1, 2010
Amended: § 54.1-1111

Exclusion of Gross Receipts of Security Brokers from the BPOL Tax

House Bill 985 (Chapter 283) and Senate Bill 90 (Chapter 195) exclude amounts paid to an independent registered representative as a commission on any sale or purchase of a security from the gross receipts of a security broker or security dealer for the purposes of the Business, Professional, and Occupational License ("BPOL") Tax.

The security broker or dealer must identify on his license application each independent registered representative to whom the excluded receipts have been paid and, if applicable, the jurisdictions where the independent registered representative is subject to the BPOL Tax.

The BPOL tax is a tax on businesses for the privilege of engaging in business at a definite place of business within a Virginia locality. The measure or basis of the BPOL tax generally is the gross receipts of the business. The BPOL tax is a tax on gross receipts, not net income.

For purposes of the BPOL tax, *Va. Code* § 58.1-3700.1 provides that gross receipts means "the whole, entire, total receipts, without deduction." Additionally, a business that is not the legal agent of its customer may not exclude from its BPOL taxable gross receipts monies it receives from its customer as payment for costs incurred by the business with others who have no contractual relationship with the customer.

The BPOL law allows taxpayers to deduct pass through costs in very limited situations, including the exclusion of commissions paid by real estate brokers to their agents that have BPOL licenses.

Effective: July 1, 2010
Amended: § 58.1-3700.1
Added: § 58.1-3732.5

Campgrounds and Bed and Breakfast Establishments Subject to the BPOL Tax

House Bill 1356 (Chapter 648) specifically add campgrounds and bed and breakfast establishments to the list of businesses renting real property that are subject to the Business, Professional, and Occupational License ("BPOL") Tax.

Localities are prohibited from imposing the BPOL Tax on any person, firm, or corporation for engaging in the business of renting real property other than hotels, motels, motor lodges, auto courts, tourist courts, travel trailer parks, lodging houses, rooming houses, and boardinghouses.

Effective: July 1, 2010
Amended: § 58.1-3703

MISCELLANEOUS LOCAL TAXES

Short Term Rental Property

House Bill 1301 (Chapter 295) and Senate Bill 355 (Chapter 255) classify short-term rental property as a separate classification of merchants' capital, and authorizes the governing body of any locality to tax short-term rental property under the Merchants' Capital Tax or under the Short-Term Rental Property Tax, but not both. This Act also specifies that short-term rental property does not constitute tangible personal property for purposes of local taxation.

Under current law, short-term rental property is subject to the Short-Term Rental Property Tax at a maximum rate of one percent, and is in lieu of any Tangible Business Personal Property Tax. Short-term rental property is currently subject to the Tangible Personal Property Tax unless the locality imposes a Short-Term Rental Property Tax.

<u>Merchants Capital Tax</u>

The Merchants' Capital Tax is a local option property tax imposed on the inventory, daily rental passenger cars, and all other personal property of merchants except for tangible personal property not for sale as merchandise. As of 2008, the tax was imposed in 46 counties and 7 towns. Localities that impose the tax are prohibited from imposing a BPOL tax on merchants. Additionally, the tax must be imposed at a rate that does not exceed the rate or ratio that was in effect in that locality on January 1, 1978.

Short-Term Rental Property Tax

Prior to the 2009 General Assembly session, localities were authorized to impose a tax on "daily rental property," which consisted of all tangible personal property held for rental and owned by a "short-term rental business." The tax was imposed at a rate not to exceed 1 percent of the gross proceeds of a business engaged in a short-term rental business. A person is deemed to be engaged in the short-term rental business if: 1) at least 80% of the gross rental receipts of the business during the preceding calendar year arose from transactions involving the rental of short-term rental property, other than heavy equipment property, for periods of 92 consecutive days or less; or 2) at least 60% of the gross receipts of the business in the preceding year arose from transactions involving the rental of heavy equipment property for periods of 270 consecutive days or less.

Daily rental property constituted "merchants' capital" subject to the Merchants' Capital Tax. Legislation enacted in 2009 removed the daily rental property, as a component of the Merchants' Capital Tax and made it a separate, freestanding tax, renamed the "Short-Term Rental Property Tax."

This Act classifies short-term rental property as a separate classification of merchants' capital, and authorizes the governing body of any locality to tax short-term rental property under the Merchants' Capital Tax or under the Short-Term Rental Property Tax, but not both. This Act also specifies that short-term rental property does not constitute tangible personal property for purposes of local taxation.

Effective: For tax years beginning on and after January 1, 2011. For BPOL taxes, this Act is effective for license years beginning subsequent to December 31, 2009
Amended: § 58.1-3500, 58.1-3510.4, 58.1-3510.6, 58.1-3704, and 58.1-3706

Disclosure of Lists of Registered Voters to Commissioners and Treasurers

Senate Bill 137 (Chapter 452) adds local commissioners of the revenue and treasurers to the list of entities to whom the State Board of Elections must furnish, at a reasonable price, lists of registered voters for their districts. These entities are entitled to this information for tax assessment, collection, and enforcement purposes.

Under current law, the State Board of Elections must furnish lists of registered voters for their districts to (i) courts of the Commonwealth and the United States; (ii) candidates for election or political party nomination; (iii) political party committees or officials of political party committees; (iv) political action committees that have filed a current statement of organization with the State Board, or with the Federal Elections Commission, (v) incumbent officeholders and (vi) nonprofit organizations that promote voter participation and registration.

Effective: July 1, 2010

Amended: §§ 24.2-405, 24.2-407.1

LEGISLATIVE

STUDIES

JLARC to Study the Effectiveness of Tax Preferences

Senate Joint Resolution 21 requires the Joint Legislative Audit and Review Commission ("JLARC") to undertake a two-year examination of the tax preferences in the individual income tax, corporate income tax, and retail sales and use tax. Excluded from this examination are the deduction for personal exemptions, the standard deduction, and the deduction for itemized deductions claimed on the federal income tax return. The resolution directs JLARC to:

- Determine which individual income, corporate income, and retail sales and use tax preferences are being claimed or taken and to what extent;
- Provide an estimate of the fiscal impact of all such tax preferences claimed or taken;
- Examine the public policies for which the tax preferences were established and whether the desired public policies have been achieved;
- Report on whether other states routinely provide a sunset date for their tax preferences; and
- Establish a proposed mechanism or processes for the ongoing evaluation of the effectiveness of such tax preferences in bringing about the desired public policies for which the tax preferences were established.

The resolution explains the need for this review by noting that on October 1, 2009, the Department of Taxation reported that the fiscal impact of corporate income tax subtractions, deductions, and credits through September 1, 2009, for taxable year 2007 was $224 million. This amount did not include the fiscal impact of tax preferences relating to individual income taxes or retail sales and use taxes. The majority of business and individual income tax and retail sales and use tax preferences do not require any pre-approval by a state agency or state entity before a taxpayer can claim or take the tax preference. Without a pre-approval process, it is exceedingly difficult to determine whether the tax preference is effective in bringing about the desired public policies.

Study of On-Line Travel Companies

The House Finance Committee has requested that TAX provide an in-depth analysis of Senate Bill 452. This bill, which was carried over to the 2011 Session of the General Assembly, would have expanded the application of the Retail Sales and Use Tax regarding hotels, motels, and other accommodations to authorize the imposition of the tax on the price mark-up and other charges and fees imposed by third party intermediaries, such as On-Line Travel Companies.

Under current law, the Retail Sales and Use Tax is imposed on the gross proceeds derived from the charge for transient accommodations made by the entity providing the accommodations. Third parties who facilitate these transactions are not liable to collect the tax on any price mark-up and other charges and fees they may charge in connection with the provision of these services.

TAX is charged with providing a complete tax analysis of the bill. Further, TAX is asked to ascertain all businesses in Virginia that would be affected by the bill and the impact of the legislation on individuals and businesses.

TAX will provide a report of this analysis to the Chairmen of the House Finance Committee by October 1, 2010.

Corporate Tax Preference Report

House Bill 355 (Chapter 379) combines the Department of Taxation's Annual Corporate Tax Preference Report and Major Business Facility Job Tax Credit Report. Under the provisions of this Act, TAX is required to post this combined report on its website and distribute it to each member of the General Assembly by October 1 of each year. In addition to the current content of the report, this Act requires that TAX provide summary information regarding the types of taxpayers who claim corporate income tax relief, as well as information regarding the number of companies that have qualified for the major business facility job tax credit and the amount of such credits. Finally, this Act eliminates the current requirement that every January 1, the Tax Commissioner submits a report to the chairmen of the House Appropriations, House Finance, and Senate Finance Committees providing information on the companies which have qualified for the major business facility job tax credit.

Under current law, the Tax Commissioner is directed to issue an annual report detailing the amount of income tax relief granted to corporations in the Commonwealth. The report must include the total dollar amount of income tax subtractions, deductions, exclusions, exemptions and credits claimed cumulatively by corporations. The Tax Commissioner is required to issue the report on an annual basis to the members of the House Appropriations Committee, the House Finance Committee and the Senate Finance Committee. The report does not reflect all of the exemptions and exclusions available to corporations because not all of them are reported on the Virginia income tax return. The Tax Commissioner must also submit a report to these committees every January 1 providing information on the companies that have qualified for the major business facility job tax credit and the amount of such credits.

The provisions of this act will combine the Department of Taxation's Annual Corporate Preference Report and Major Business Facility Job Tax Credit Report, thus eliminating the separate requirement that every January 1, the Tax Commissioner submit a report to the various House and Senate committees providing information on the companies which have qualified for the major business facility job tax credit.

Effective: July 1, 2010
Amended: § 58.1-202

Land Preservation Tax Credit: Department of Conservation and Recreation Report

Senate Bill 341 (Chapter 384) requires the Department of Conservation and Recreation, in preparing its annual report on qualified Land Preservation Tax Credit donations, to provide an estimate of the number of acres of land currently being used for "production agriculture and silviculture" that have been protected by qualified donations of less-than-fee interests and that have onsite operational best management practices, which are designed to reduce the amount of nutrients and sediment entering public waters. This must be done in consultation with TAX, the Department of Forestry and the Department of Agriculture and Consumer Services. The information must be reported in summary fashion as appropriate to preserve confidentiality of information.

Virginia Code § 3.2-300 defines "production agriculture and silviculture" as the bona fide production or harvesting of agricultural or silvicultural products but shall not include the processing of agricultural or silvicultural products or the above ground application or storage of sewage sludge.

Effective: July 1, 2010
Amended: § 58.1-512

INDEXES

INDEX BY BILL NUMBER

INDEX BY BILL NUMBER

INDEX BY BILL NUMBER

INDEX BY CHAPTER NUMBER

INDEX BY CHAPTER NUMBER

INDEX BY CHAPTER NUMBER

INDEX BY TITLE 58.1 CODE SECTION NUMBER

INDEX BY TITLE 58.1 CODE SECTION NUMBER

INDEX BY TITLE 58.1 CODE SECTION NUMBER