

2013 LEGISLATIVE SUMMARY



Virginia
Department of Taxation

Craig M. Burns
Tax Commissioner

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INTRODUCTION

The **Legislative Summary** is published by the Department of Taxation (the Department) as a convenient reference guide to state and local tax legislation enacted by the 2013 Session of the General Assembly and Special Session I, including the reconvened session on April 3, 2013. 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 the Department, and
- ◆ Local taxes for which the Department assists with administration or on which the Department renders advisory assistance.

References to chapter numbers are to the corresponding chapters in the *Acts of Assembly*, which may be viewed at <http://lis.virginia.gov>. Effective dates of the legislation vary and are set out in each description.

In general, 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 informational purposes only. The **Summary** is not a substitute for the actual state law, local ordinances, and the Department's regulations or guidelines. Additional information on new legislation affecting state taxes may be obtained from the Department as follows:

Telephone:

Individual Income Tax	(804) 367-8031
Corporate Income Tax	(804) 367-8037
Sales and Use Tax	(804) 367-8037
Employer Withholding Tax	(804) 367-8037
Voice/TDD/TYY	7-1-1

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

Email: Information may also be obtained by electronic mail as follows:

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

Emails sent to these addresses are not encrypted and therefore are not secure. The Department 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
July 2013

TABLE OF CONTENTS

STATE TAX LEGISLATION	1
GENERAL PROVISIONS.....	2
Confidentiality of Tax Information	2
Electronic Filing Mandate for Employer Withholding Tax Forms.....	2
Electronic Filing and Payment for Pass-Through Entities	3
INCOME TAX.....	4
Advancement of Virginia’s Fixed Date Conformity with the Internal Revenue Code	4
Deposit of Tax Refunds into Virginia College Savings Plan Accounts	4
Deduction for Prepaid Funeral, Medical, and Dental Insurance Premiums	5
Land Preservation Tax Credit Cap	6
Increase in Worker Retraining Tax Credit	6
Voluntary Contributions to the Chesapeake Bay Watershed Implementation Plan	7
Neighborhood Assistance Act and Education Improvement Scholarships Tax Credits	8
Neighborhood Assistance Act Credit.....	11
Income Tax Credit for Landlords Participating in Housing Choice Voucher Programs.....	12
Long-Term Health Care Insurance Tax Credit	12
Unclaimed Tax Credits Declared Obsolete	13
Reduced Insurance Premiums License Tax Rate for Certain Insurers	13
Technical Corrections to the Insurance Premiums License Tax	14
Investments Eligible for Tax Credits	15
Virginia Port Volume Increase Tax Credit	16
Qualified Equity and Subordinated Debt Investments Tax Credit	16
CIGARETTE TAX	18
Bond and Letter of Credit Requirements	18
Penalties Relating to Stamped and Unstamped Cigarettes	18
Penalties Added and Increased for Possession with Intent to Distribute Contraband Cigarettes	19
Penalties for Counterfeit Cigarettes.....	20
Electronic Filing of Cigarette and Other Tobacco Products Taxes	20
MOTOR VEHICLE RENTAL TAX	22
Exclusions from the Motor Vehicle Rental Tax.....	22
RETAIL SALES AND USE TAX	23
Accelerated Sales Tax.....	23
Increase in Retail Sales and Use Tax	23
Collection of Sales and Use Tax from Remote Sellers Tied to Passage of Federal Legislation.....	24
Entitles Town of Wise and City of Fredericksburg to Sales and Use Tax Revenue Generated by Certain Public Facilities.....	25
Entitles City of Virginia Beach to Sales and Use Tax Revenue Generated by a Proposed Arena	26
Sales and Use Tax Exemption for Pollution Control Equipment	27
Clarifies Exemption for Harvesting of Forest Products.....	27

2013 LEGISLATIVE SUMMARY

Clarification of the Exemption for Certain Separately Stated Charges for Rented or Leased Property 28

Expansion of the Exemption for Hurricane Preparedness Items..... 28

Titling and Registration of Mopeds and Distinctive License Plates for Low-Speed Vehicles..... 29

TRANSIENT OCCUPANCY TAXES 30

 New State Transient Occupancy Tax 30

EXCISE TAX 31

 Extension of the Current Peanut Excise Tax Rate 31

LOCAL TAX LEGISLATION..... 32

GENERAL PROVISIONS..... 33

 Real Property Tax Payment Agreements for Delinquent Taxes..... 33

 State and Local Agencies Among Those Required to File Lists of Boat Owners 33

COLLECTION OF LOCAL TAXES 34

 Treasurers May Transmit Bills from Database 34

OTHER LOCAL TAXES..... 35

 Grantor’s Fee 35

 Stafford County Authorized to Levy Local Admissions Tax..... 35

TRANSIENT OCCUPANCY TAXES 37

 Authorizes Dickenson County, Greenville County and Grayson County to Increase Transient Occupancy Tax Rate 37

REAL ESTATE TAX 38

 Real Property Tax Changes 38

 Changes to Local Boards of Equalization..... 38

 Real Property Assessments of Affordable Housing 40

 Localities Granted Discretion to Impose Roll-Back Taxes on Real Property Tax 41

 Real Property and Tangible Personal Property Tax in the City of Bedford 42

 Goochland County Exclusions from Land Use Valuation 42

SEVERANCE TAXES 43

 Appeals Allowed for Local Gas Severance Taxes 43

 Local Coal Severance Taxes..... 43

 Coal and Gas Road Improvement Fund..... 44

TANGIBLE PERSONAL PROPERTY TAX..... 45

 Separate Classification for Certain Vehicles Leased by Localities or Constitutional Officers 45

 Separate Classification for Computer Equipment in Data Centers 45

 Separate Classification for Advertising Signs..... 46

STATE TAX

LEGISLATION

GENERAL PROVISIONS

Confidentiality of Tax Information

House Bill 2092 (Chapter 230), authorizes the Tax Commissioner to provide the Virginia Department of Agriculture and Consumer Services (“VDACS”) with the names and addresses of taxpayers who are licensed by the Commonwealth and identify themselves as subject to Board of Agriculture and Consumer Services regulations to operate food establishments.

Information about a taxpayer’s transactions, property, income, or business is confidential. Among the exceptions that permit certain information to be disclosed is one that permits the Department to disclose to VDACS information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies.

VDACS is required to inspect food establishments that manufacture, warehouse, or sell food products or dietary supplements, but it has no systematic way of knowing when such businesses open. As an alternative to imposing a new licensing requirement on food establishments, the Department, at VDACS request is modifying its registration form (Form R-1) so the Department can obtain the information via its registration process. This Act authorizes the disclosure of this information to VDACS.

Effective: July 1, 2013
Amended: § 58.1-3

Electronic Filing Mandate for Employer Withholding Tax Forms

Item No. 273 (N) of the 2013 Appropriation Act (Chapter 806) requires all employers to file annual withholding reports as well as all quarterly, monthly, and semiweekly returns using an electronic medium in a format prescribed by the Tax Commissioner. Under prior law, only semiweekly filers and employers who furnished fifty or more employee withholding statements were required to file such withholding reports electronically. The Tax Commissioner has the authority to waive the requirement to file by electronic means. If the Tax Commissioner finds that this requirement creates an unreasonable burden on the taxpayer, waivers will be granted. All requests for waivers must be submitted to the Tax Commissioner in writing.

Effective: July 1, 2013
Supersedes: §§ 58.1-9; 58.1-478

Electronic Filing and Payment for Pass-Through Entities

Item 273 (Q) of the 2013 Appropriation Act (Chapter 806) requires that the Department develop an annual return for a pass-through entity to file using an electronic medium in a format prescribed by the Tax Commissioner.

Effective: Before, but no later than, January 1, 2015.

Supersedes: § 58.1-9

INCOME TAX

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

House Bill 2150 (Chapter 4) and Senate Bill 1241 (Chapter 693) advance Virginia’s date of conformity to the Internal Revenue Code (“IRC”) from December 31, 2011, to January 2, 2013, with limited exceptions. This avoids the necessity of requiring taxpayers to make adjustments for most federal tax changes enacted on or before January 2, 2013.

Virginia will continue to disallow:

- Any bonus depreciation allowed for certain assets under federal income taxation and any five year carry-back of NOLs allowed for certain NOLs generated in either Taxable Year 2008 or 2009;
- Deductions for applicable high yield discount obligations under IRC § 163(e)(5)(f); and
- Tax exclusions under IRC § 108(i) related to cancellation of debt income realized in connection with a reacquisition of business debt at a discount after December 31, 2008, and before January 1, 2011.

In order to make filing less complicated for certain low-income taxpayers, and to allow them to benefit from federal changes, these Acts allow Virginia to conform to the temporary enhancements to the federal Earned Income Tax Credit (“EITC”) for Taxable Year 2012. These Acts also allow Virginia to conform to the American Taxpayer Relief Act of 2012.

Effective: Taxable years beginning on and after January 1, 2012
Amended: § 58.1-301

Deposit of Tax Refunds into Virginia College Savings Plan Accounts

House Bill 2145 (Chapter 28) and Senate Bill 1220 (Chapter 402) allow an individual to designate that his individual income tax refund, or a portion thereof, be deposited into one or more Virginia College Savings Plan accounts. This allows taxpayers to deposit refund amounts into a savings account designated specifically for college savings in a manner similar to how refunds are currently deposited directly into a checking or savings account.

2013 LEGISLATIVE SUMMARY – STATE TAXES

Under these Acts, the Department will send the designated deposit amounts to the Virginia College Savings Plan along with the following information:

- The amount of the individual income tax refund or the portion of the refund that the individual has chosen to contribute;
- The taxpayer's name, Social Security number or tax identification number, address, and telephone number; and
- The Virginia College Savings Plan account number or numbers into which the contributions will be deposited.

If a deposit is designated on an individual income tax return that is filed jointly by a husband and wife, then the Department will send their deposit to the Virginia College Savings Plan along with information for both the husband and wife. Any taxpayer designating that a refund be deposited into a Virginia College Savings Plan account will, by making such designation, be deemed to authorize the Department to provide all necessary information to the Virginia College Savings Plan.

If a taxpayer owns a single Virginia College Savings Plan account, then the Virginia College Savings Plan will deposit the designated refund amount into that account. If a taxpayer owns more than one Virginia College Savings Plan account, then the Virginia College Savings Plan will allocate the designated refund amount between the accounts in equal amounts, or as otherwise designated by the taxpayer. If an individual does not own a Virginia College Savings Plan account, then the amount of the refund will be returned to the individual by the Virginia College Savings Plan. For purposes of determining interest on an overpayment or refund, no interest will accrue after the Department sends the designated amount to the Virginia College Savings Plan.

These Acts require that the Department and the Virginia College Savings Plan enter into a memorandum of understanding to establish how any reasonable and necessary costs incurred by the Department as a result of these Acts will be recovered from the Virginia College Savings Plan.

<i>Effective:</i>	Taxable years beginning on and after January 1, 2014
<i>Amended:</i>	§ 58.1-344.2
<i>New:</i>	§ 58.1-344.4

Deduction for Prepaid Funeral, Medical, and Dental Insurance Premiums

House Bill 2167 (Chapter 88) allows an income tax deduction equal to the amount an individual age 66 or older with earned income of at least \$20,000 and federal adjusted gross

income not in excess of \$30,000 for the year pays annually in premiums for (i) a prepaid funeral insurance policy covering such individual or (ii) medical or dental insurance for any person for whom the individual taxpayer may claim a deduction for such premiums under federal income tax laws. The deduction is not allowed for any portion of such premiums for which the taxpayer has been reimbursed, has claimed a deduction for federal income tax purposes, has claimed another Virginia income tax deduction or subtraction, or has claimed a federal income tax credit or any Virginia income tax credit.

Effective: Taxable years beginning on and after January 1, 2013
Amended: § 58.1-322

Land Preservation Tax Credit Cap

House Bill 1398 (Chapter 798) limits the maximum amount of Land Preservation Tax Credits that may be issued in a calendar year to \$100 million. For the 2013 calendar year, this will reduce the credit cap from \$113.9 million to \$100 million.

This Act provides that the Governor may recommend an annual appropriation from the General Fund in an amount equal to the difference between the indexed Land Preservation Tax Credit cap amount for the calendar year and \$100 million. Such appropriation will be allocated as follows: 80 percent to the Virginia Land Conservation Fund, 10 percent to the Civil War Site Preservation Fund, and 10 percent to the Virginia Farmland Preservation Fund. At least 50 percent of the appropriation to the Virginia Land Conservation Fund must be used for fee simple acquisitions with public access or acquisitions of easements with public access.

Under prior law, the credit cap was increased by the amount of reissued credits that were previously issued but subsequently disallowed or invalidated by the Department. This Act eliminates this provision.

Effective: Calendar Year 2013
Amended: § 58.1-512
New: § 2.2-1509.4

Increase in Worker Retraining Tax Credit

House Bill 1923 (Chapter 294) increases the Worker Retraining Tax Credit for eligible worker retraining courses taken by qualified employees at private schools from a maximum of \$100 per year per qualified employee to \$200 per year per qualified employee, or \$300 per year

2013 LEGISLATIVE SUMMARY – STATE TAXES

per qualified employee if the worker retraining includes retraining in a STEM or STEAM discipline including, but not limited to industry-recognized credentials, certificates, and certifications.

A “STEM or STEAM discipline” is defined as a science, technology, engineering, mathematics, or applied mathematics related discipline as determined by the Department of Business Assistance in consultation with the Superintendent of Public Instruction. The term also includes a health care related discipline.

This Act also adds a sunset date to the Worker Retraining Tax Credit, which allows taxpayers to claim the tax credit for taxable years beginning on and after January 1, 1999, but prior to January 1, 2018.

Effective: Taxable years beginning on or after January 1, 2013
Amended: § 58.1-439.6

Voluntary Contributions to the Chesapeake Bay Watershed Implementation Plan

House Bill 2039 (Chapter 22) and Senate Bill 1054 (Chapter 631) allow voluntary contributions of individual income tax refunds made to the Chesapeake Bay Restoration Fund to be used to fund the Chesapeake Bay Watershed Implementation Plan. Under prior law, voluntary contributions to the Chesapeake Bay Restoration Fund on individual income tax returns could only be used to help fund the Chesapeake Bay and its tributaries restoration activities in accordance with tributary plans developed by the Secretary of Natural Resources.

These Acts expand the purposes for which such funds may be used to include funding for implementation of the Chesapeake Bay Watershed Implementation Plan submitted by Virginia to the U.S. Environmental Protection Agency on November 29, 2010, and any subsequent revisions to this plan. Voluntary contributions to the Chesapeake Bay Restoration Fund are placed in a special nonreverting fund that is administered by the Office of the Secretary of Natural Resources. These Acts allow the Office of the Secretary of Natural Resources to use the money deposited in this fund to provide grants for the implementation of the Chesapeake Bay Watershed Implementation Plan.

Effective: July 1, 2013
Amended: § 58.1-344.3

Neighborhood Assistance Act and Education Improvement Scholarships Tax Credits

House Bill 1996 (Chapter 716) and Senate Bill 1227 (Chapter 713) make several changes to the Neighborhood Assistance Act Tax Credit and the Education Improvement Scholarships Tax Credit. These changes include increasing the amount of tax credits that may be issued to an individual during the taxable year, clarifying that the existing \$500 minimum donation requirement applies on an individual basis, and specifying the type of accounting reports that must be provided by neighborhood organizations and scholarship foundations.

These Acts make several additional changes and technical amendments to the Education Improvement Scholarships Tax Credit. These changes include the following:

- Clarifying the definition of “student” for purposes of qualifying to receive scholarships from scholarship foundations;
- Extending the credit so that it may be claimed for donations of marketable securities;
- Altering the time frame during which scholarship foundations must disburse at least 90 percent of the value of donations for which tax credits were issued;
- Clarifying the deadlines for the annual reporting requirements for scholarship foundations, as well as specifying the information that must be reported; and
- Amending the penalty provisions for the failure of a scholarship foundation to meet the requirements of this bill by the applicable deadlines.

House Bill 1996 also extends the expiration date for both tax credits, to July 1, 2028 for the Neighborhood Assistance Act Tax Credit, and to January 1, 2028 for the Education Improvement Scholarships Tax Credit.

Neighborhood Assistance Act Tax Credit

These Acts increase the amount of Neighborhood Assistance Act Tax Credits that may be issued to an individual during the taxable year. Under preexisting law, no more than \$50,000 in tax credits could be issued to an individual or to married persons in a taxable year. These Acts allow credits to be issued for the first \$125,000 in donations made by the individual during the taxable year. Donations of \$125,000 equate to a 65 percent tax credit of \$81,250. This provision applies on an individual basis, thereby allowing a married couple to receive credits for donations of up to \$250,000 (a credit of \$162,500). These Acts also clarify that the existing \$500 minimum donation requirement applies on an individual basis.

These Acts clarify what information must be provided by neighborhood organizations prior to approval for allocating tax credits. Preexisting law requires that regulations or guidelines

2013 LEGISLATIVE SUMMARY – STATE TAXES

adopted by the Department of Social Services or the Department of Education contain a requirement that neighborhood organizations provide an annual audit, review, or compilation as required under federal standards. These Acts clarify this requirement by stating that neighborhood organizations with total revenues in excess of \$100,000 for the organization's most recent year must provide an audit or review for the year performed by an independent certified public accountant. Neighborhood organizations with revenues of \$100,000 or less for the organization's most recent year are required to provide a compilation for the year performed by an independent certified public accountant.

House Bill 1996 extends the expiration date for the Neighborhood Assistance Act Tax Credit to July 1, 2028.

Education Improvement Scholarships Tax Credit

House Bill 1996 increases the amount of Education Improvement Scholarships Tax Credits that may be issued to an individual during the taxable year. Under preexisting law, no more than \$50,000 in tax credits could be issued to an individual or to married persons in a taxable year. House Bill 1996 allows credits to be issued for the first \$125,000 in donations made by the individual during the taxable year. Donations of \$125,000 equate to a tax credit of \$81,250. This provision applies on an individual basis, thereby allowing a married couple to receive credits for donations of up to \$250,000 (a credit of \$162,500). House Bill 1996 also clarifies that the existing \$500 minimum donation requirement applies on an individual basis.

House Bill 1996 and SB 1227 clarify the definition of "student" for purposes of qualifying to receive scholarships from scholarship foundations. Under these Acts, a qualifying "student" is defined as a child who is a resident of Virginia and meets one of the following criteria:

- In the current school year has enrolled and attended a public school in Virginia for at least one-half of the year,
- For the school year that immediately preceded his receipt of a scholarship foundation scholarship was enrolled and attended a public school in Virginia for at least one-half of the year,
- Is a prior recipient of a scholarship foundation scholarship,
- Is eligible to enter kindergarten or first grade, or
- For the school year that immediately preceded his receipt of a scholarship foundation scholarship was domiciled in a state other than Virginia and did not attend a nonpublic school in Virginia for more than one-half of the school year.

These Acts expand the Education Improvement Scholarships Tax Credit by allowing tax credits for donations of marketable securities. Senate Bill 1227 requires scholarship foundations that receive donations of marketable securities for which tax credits were issued to

sell such securities and convert the donation into cash within 14 days after receipt of the donation.

These Acts also alter the time frame during which scholarship foundations must disburse at least 90 percent of the value of donations for which tax credits were issued. Preexisting law requires scholarship foundations to disburse 90 percent of the amount of each donation for which a tax credit may be received within one year of such donation. These Acts amend this requirement to require scholarship foundations to disburse 90 percent of the value of donations for which tax credits were issued during the 12-month period ending on June 30 by the immediately following June 30. Required disbursements must begin with donations received for the period January 1, 2013 through June 30, 2014.

Under these Acts, any scholarship foundation that fails to disburse at least 90 percent of the value of donations within the specified time period is subject to a civil penalty for the first offense. Such civil penalty is equal to 200 percent of the difference between 90 percent of the donated amount and the amount that was actually disbursed. Any civil penalty must be remitted by the scholarship foundation to the Department of Education within 30 days after the end of the one-year period and deposited into the General Fund. For the second offense within a five-year period, a scholarship foundation will be removed from the annual list and will not be permitted to receive and administer tax credit-derived funds for two years. After two years, the scholarship foundation will be permitted to reapply to be included on the annual list. If the scholarship foundation is reauthorized, the next subsequent offense will be treated as a first offense.

These Acts make several changes to the reporting requirements for scholarship foundations. Under these Acts, scholarship foundations would be required to report the following information:

- The total number and value of contributions received by the scholarship foundation in its most recent fiscal year ended for which tax credits were issued;
- The dates when such contributions were received; and
- The total number and dollar amount of educational expenses, scholarships disbursed by the scholarship foundation during its most recent fiscal year.

Such information must be reported by September 30 of each year, beginning with September 30, 2014. Any scholarship foundation that fails to meet this reporting requirement by the deadline is required to pay a \$1,000 civil penalty for the first offense. Such civil penalty must be remitted by the scholarship foundation to the Department of Education by November 1 of the same year and deposited into the General Fund. For the second offense within a five-year period, a scholarship foundation will be removed from the annual list and will not be permitted to receive and administer tax credit-derived funds for two years. After two years, the scholarship foundation is permitted to reapply to be included on the annual list. If the scholarship foundation is reauthorized, the next subsequent offense will be treated as a first offense.

These Acts clarify the reporting standards for scholarship foundations' tax credit-derived funds. Pre-existing law requires that an annual audit, review, or compilation, as required by federal standards, be conducted on a scholarship foundation's tax credit-derived funds. These Acts require that scholarship foundations with total revenues in excess of \$100,000 for the foundation's most recent year have an audit or review of the foundation's donations received for each year performed by an independent certified public accountant. Under these Acts, scholarship foundations with revenues of \$100,000 or less for the foundation's most recent year are required to provide a compilation of the foundation's donations for the year performed by an independent certified public accountant. The scholarship foundation's board of directors is required to certify the statutorily required information as an appendix to the applicable report.

Upon receipt and approval by the Department of Education of the preauthorization notice with required supporting documentation and certification of the value and type of donation by the scholarship foundation, the Superintendent of Public Instruction is required to issue tax credit certificates to eligible taxpayers within 30 days. Taxpayers are required to attach the tax credit certification to the applicable tax return. The Department of Education is required to provide a copy of the tax credit certification to the scholarship foundation.

Effective: July 1, 2013, except that the provisions amending the minimum donation and establishing a maximum amount of donations are effective for taxable years beginning on or after January 1, 2013
Amended: §§ 58.1-439.20, 58.1-439.24 through 58.1-439.28

Neighborhood Assistance Act Credit

Senate Bill 1009 (Chapter 802) makes several changes to the Neighborhood Assistance Act Tax Credit. Specifically, this Act requires that at least 50 percent of the neighborhood organization's revenues be used to provide services to low-income persons or to eligible students with disabilities.

This Act also clarifies the type of accounting reports that must be provided by neighborhood organizations prior to approval for allocating tax credits. Current law requires that regulations or guidelines adopted by the Department of Social Services ("DSS") or the Department of Education ("DOE") contain a requirement that neighborhood organizations provide an annual audit, review, or compilation as required under federal standards. This Act clarifies this requirement by stating that neighborhood organizations with total revenues in excess of \$100,000 for the organization's most recent year must provide an audit or review for the year performed by an independent certified public accountant. Neighborhood organizations with revenues of \$100,000 or less for the organization's most recent year would be required to provide a compilation for the year performed by an independent certified public accountant.

2013 LEGISLATIVE SUMMARY – STATE TAXES

This Act requires a neighborhood organization to be in existence for at least one year prior to having a proposal for Neighborhood Assistance Act Tax Credits approved by DSS or DOE. This Act also specifies that a neighborhood organization and its affiliates must meet the requirements of the application regulations and guidelines in order for a proposal to be approved.

Effective: July 1, 2013
Amended: § 58.1-439.20

Income Tax Credit for Landlords Participating in Housing Choice Voucher Programs

House Bill 2059 (Chapter 23) and Senate Bill 932 (Chapter 374) decrease the annual cap on the Communities of Opportunity Tax Credit from \$450,000 to \$250,000. This credit is issued each fiscal year by the Department of Housing and Community Development to landlords participating in housing choice voucher programs.

Effective: July 1, 2013
Amended: § 58.1-439.12.12:04

Long-Term Health Care Insurance Tax Credit

House Bill 2047 (Chapter 801) repeals the Long-Term Care Insurance Tax Credit. This Act will not affect any Long-Term Care Insurance Tax Credits earned prior to the repeal, or the administration of such tax credits.

This Act also clarifies that the long-term health care insurance premiums deduction is completely disallowed if the individual has claimed a federal income tax deduction for such taxable year for long-term health care insurance premiums paid by him. The existing “provided” clause, which was interpreted as allowing the deduction to the extent that the individual has not deducted such premiums for federal income tax purposes, is eliminated under this Act.

Effective: Taxable years beginning on and after January 1, 2014
Amended: § 58.1-322
Repeals: § 58.1-339.11

Unclaimed Tax Credits Declared Obsolete

Senate Bill 1296 (Chapter 657) deems tax credits that have not been claimed by any taxpayer during the five preceding calendar years obsolete and precludes the Department from authorizing taxpayers to claim such tax credits, except as expressly authorized by the General Assembly. For the purposes of this Act, a tax credit is considered to have been claimed in the calendar year in which it was first claimed by a taxpayer. The carryover or transfer of a tax credit in a subsequent taxable year does not alter the date on which a tax credit was claimed. This Act does not prevent the lawful carryover or transfer of a tax credit previously authorized by the Department.

This Act requires the Department to report all tax credits that are deemed obsolete to the House Committee on Appropriations, the House Committee on Finance, and the Senate Committee on Finance no later than February 1 of each year and to publish the report on its website. The report will also be submitted to the Division of Legislative Automated Systems pursuant to *Va. Code* § 30-34.15.

Effective: July 1, 2013
New: § 58.1-318

Reduced Insurance Premiums License Tax Rate for Certain Insurers

House Bill 1784 (Chapter 210) and Senate Bill 780 (Chapter 136) repeal the open enrollment requirement that applies to certain insurance companies. Because the open enrollment requirement is no longer be imposed, these Acts also repeal the Insurance Premiums License Tax rate structure that applies to premium income generated by certain insurers.

Background

The Insurance Premiums License Tax is a tax imposed on every insurance company that is engaged in the business of issuing policies or contracts for insurance and on every corporation that issues subscription contracts for insurance that are health services plans, dental services plans, or optometric services plans. The Insurance Premiums License Tax rate imposed on a corporation's direct gross subscriber fee income that is derived from subscription contracts is generally 2.25 percent. However, a reduced rate of 0.75 percent is imposed on such income that is derived from subscription contracts issued to individuals and from open enrollment contracts.

2013 LEGISLATIVE SUMMARY – STATE TAXES

Under Virginia law, a corporation that operates a health services plan and offers an open enrollment program must continue to offer such program, directly or through a subsidiary, even if it converts into a domestic mutual insurer or stock insurer. An insurer that offers an open enrollment program subsequent to a conversion is subject to a reduced Insurance Premiums License Tax rate of 0.75 percent on premium income that is derived from individual accident and sickness insurance policies and open enrollment contracts. Premium income derived from other accident and sickness insurance is subject to a rate of 2.25 percent.

On March 23, 2010, the federal Patient Protection and Affordable Care Act (“PPACA”) was signed into law. The PPACA requires every state to establish an American Health Benefit Exchange (“Exchange”) by January 1, 2014, through which participating insurance companies may sell health insurance. Beginning on October 1, 2013, the PPACA will require Exchanges to have annual open enrollment periods during which individuals and small businesses may purchase private health insurance from participating insurance companies. For taxable years beginning on and after January 1, 2014, the PPACA will prohibit health insurance providers from discriminating against or charging higher rates for any individual based on pre-existing conditions.

2013 Legislation

To ensure that Virginia law is consistent with the new federal insurance requirements, these Acts repeal the open enrollment requirement for corporations that offer a health services plan and convert into domestic insurers or stock insurers. Because the open enrollment requirement is no longer imposed, these Acts also repeal the Insurance Premiums License Tax rate structure that applies to premium income generated by such insurers following a conversion.

These Acts repeal the reduced Insurance Premiums License Tax rate currently imposed on the direct gross subscriber fee income derived from certain contracts issued by corporations that operate a health services plan, dental services plan, or optometric services plan. Instead these Acts impose a rate of 2.25 percent on the direct subscriber fee income derived from all contracts issued by such corporations.

Effective: January 1, 2014
Amended: §§ 32.1-352, 38.2-508, 38.2-3432.3, 38.2-3444, 38.2-4229.1, 58.1-2501
Repeals: § 38.2-4216.1

Technical Corrections to the Insurance Premiums License Tax

House Bill 2155 (Chapter 29) and Senate Bill 1216 (Chapter 163) make several technical changes related to the administration of the Insurance Premiums License Tax by the

2013 LEGISLATIVE SUMMARY – STATE TAXES

Department. Specifically, these Acts continue the SCC's current practices by waiving penalty and interest for quarterly estimated payments made by surplus lines brokers and by clarifying that the Department will not pay interest on the refund of overpayments of the Insurance Premiums License Tax. Both of these measures maintain the status quo, rather than shifting the current policy for administering the tax.

These Acts change the interest rate applied to underpayments by insurance companies so that it is consistent with the standard interest rate applied to other taxes administered by the Department. These Acts also create uniform payment and billing deadlines by increasing the time period within which a taxpayer is required to pay additional amounts owed from 14 days to 30 days from the date of the notice.

These Acts clarify the authority for disclosing information to the other state agencies, including the disclosure of information to the SCC for purposes of administering the Insurance Premiums License Tax.

Effective: Taxable years beginning on and after January 1, 2013
Amended: §§ 38.2-4809, 58.1-3, 58.1-2504, 58.1-2505, 58.1-2507, 58.1-2525, 58.1-2526, 58.1-252

Investments Eligible for Tax Credits

House Bill 1872 (Chapter 289) allows any investment by a taxpayer that is transacted via an online general solicitation, an online broker, or a funding portal to be eligible for any income tax credit for which it qualifies.

For purposes of this Act, "Funding portal" is defined as a website that (i) allows accredited investors to participate in general solicitation transactions by an issuer that meet the requirements of § 4(a)(6) of the Securities Act of 1933, P.L. 112-106, or (ii) is an online broker or funding portal registered with the federal Securities Exchange Commission pursuant to § 4A(a) of the Securities Act of 1993, P.L. 112-106.

This Act requires the Department of Taxation to develop guidelines to facilitate the submission of electronic documents required to be submitted by a taxpayer to document or verify that an investment eligible for a tax credit has been made.

Effective: July 1, 2013
New: § 58.1-318

Virginia Port Volume Increase Tax Credit

House Bill 1824 (Chapter 744) allows agricultural entities, manufacturing-related entities, and mineral and gas entities to claim the Port Volume Increase Tax Credit. Under prior law, the credit could be claimed only by taxpayers engaged in the manufacturing of goods or the distribution of manufactured goods.

Under this Act, a “manufacturing-related entity” is defined as a person engaged in the manufacturing of goods or the distribution of manufactured goods. An “agricultural entity” is defined as a person engaged in growing or producing wheat, grains, fruits, nuts, crops; tobacco, nursery, or floral products; forestry products excluding raw wood fiber or wood fiber processed or manufactured for use as fuel for the generation of electricity; or seafood, meat, dairy, or poultry products. A “mineral and gas entity” is defined as a person engaged in severing minerals or gases from the earth.

For purposes of determining the credit amount, the base year for manufacturing-related entities will continue to be the 2010 calendar year. The base year for agricultural entities and mineral and gas entities is January 1, 2012, through December 31, 2012.

Effective: Taxable years beginning on and after January 1, 2013
Amended: § 58.1-439.12:10

Qualified Equity and Subordinated Debt Investments Tax Credit

Item 3-6.04 of the 2013 Appropriations Act (House Bill 1500, Chapter 806) increases the credit cap for Qualified Equity and Subordinated Debt Investments Tax Credit to \$4.5 million for taxable years beginning on or after January 1, 2013, and before December 31, 2013. For taxable years beginning on or after January 1, 2014, and before December 31, 2014, the credit is restored to the statutory cap of \$5 million.

The amount of Qualified Equity and Subordinated Debt Investments Tax Credits available in a calendar year is statutorily limited to \$5 million. Since 2006, budgetary language has reduced the annual credit cap to \$3 million, beginning with taxable years beginning on and after January 1, 2006. The 2010 Appropriations Act (Chapter 874, Acts of Assembly of 2010) restored the \$5 million cap for Taxable Year 2010. The 2012 Appropriations Act (House Bill 1301, Chapter 3, 2012 Special Session I) imposed a \$3 million cap for Taxable Year 2011 and a \$4 million cap for Taxable Year 2012. The 2013 Appropriations Act increases the credit cap to \$4.5 million for Taxable Year 2013 and to \$5 million for Taxable Year 2014.

2013 LEGISLATIVE SUMMARY – STATE TAXES

Effective: Taxable years beginning on and after January 1, 2013
Supersedes: § 58.1-339.4

CIGARETTE TAX

Bond and Letter of Credit Requirements

House Bill 2219 (Chapter 311) and Senate Bill 1092 (Chapter 389) authorizes the Tax Commissioner to reduce the face amount of the required bond or irrevocable letter of credit filed by a stamping agent in order to obtain Virginia cigarette revenue stamps without concurrent payment. Such amount would be a face amount determined by the Tax Commissioner to be satisfactory to cover possible losses resulting from the failure to remit taxes due, but not to exceed two times the anticipated average monthly amount of stamp purchases by the stamping agent as determined by the Tax Commissioner.

Under current law, in order to obtain cigarette stamps without concurrent payment, stamping agents must file a bond or irrevocable letter of credit in the face amount of approximately two times the anticipated average monthly amount in purchases of Virginia revenue stamps by the stamping agent as determined by the Tax Commissioner.

Pursuant to *Va. Code* § 58.1-1001, the Commonwealth imposes a state cigarette tax at the rate of 1.5 cents per cigarette (30 cents per pack of 20 cigarettes). The cigarette tax is paid by stamping agents through the purchase of stamps, which under *Va. Code* § 58.1-1003 must be affixed to each individual package, bag, box, or can in which cigarettes are sold.

Currently, only manufacturers, wholesale dealers and retail dealers may be permitted as stamping agents. No person may purchase, possess or affix Virginia revenue stamps without first obtaining a permit to do so from the Department. In order to obtain a stamping permit, a person must submit an application and application fee of \$600 to the Department, which conducts a background investigation on the applicant.

Effective: July 1, 2013
Amended: § 58.1-1009

Penalties Relating to Stamped and Unstamped Cigarettes

House Bill 1820 (Chapter 570) changes the penalties for those who possess, sell, or otherwise distribute cigarettes upon which the appropriate taxes have not been paid as follows:

- Fewer than 500 packages—Class 1 misdemeanor for first offense; Class 6 felony for second subsequent offense.

2013 LEGISLATIVE SUMMARY – STATE TAXES

- 500 or more packages—Class 6 felony for first offense; Class 5 felony for second or subsequent offense.

Senate Bill 1018 (Chapter 624) lowers the cut-off amount at which the offense of possessing, selling, or otherwise distributing cigarettes upon which the appropriate taxes have not been paid becomes a felony from 3,000 packages to 500 packages.

If the quantity of cigarettes involved is fewer than 3,000 packages, the offense is currently a Class 2 misdemeanor. For 3,000 or more packages, the offense is a Class 6 felony.

Senate Bill 1022 (Chapter 627) allows the forfeiture of cigarettes possessed in violation of laws regarding the sale, purchase, transport, receipt, or possession of unstamped cigarettes and the possession with intent to distribute of certain amounts of tax-paid cigarettes if the violation is knowing and intentional.

House Bill 1783 (Chapter 567) and Senate Bill 1017 (Chapter 623) increase the penalty for unauthorized possession, with the intent to distribute, more than 5,000 (25 cartons) tax-paid cigarettes as follows:

- More than 5,000 cigarettes (25 cartons) but fewer than 100,000 (500 cartons)—Class 1 misdemeanor for first offense and Class 6 felon for a second or subsequent offense.
- 100,000 cigarettes (500 cartons) or more—Class 6 felony for a first offense and Class 5 felony for a second or subsequent offense.

Under current law, unauthorized possession, with the intent to distribute, more than 5,000 (25 cartons) tax-paid cigarettes is a Class 2 misdemeanor for the first offense and a Class 1 misdemeanor for the second or any subsequent offense.

Effective: July 1, 2013

Amended: §§ 58.1-1017, 58.1-1017.1, 18.2-246.13, 18.2-246.14, 18.2-246.15, 19.2-245.01, 18.2-513, 19.2-386.21, 3.2-4209, 58.1-1003, 58.1-1008.1, 58.1-1009, 58.1-1021.02:1

Penalties Added and Increased for Possession with Intent to Distribute Contraband Cigarettes

Senate Bill 1020 (Chapter 626) adds to the list of Racketeer Influenced and Corrupt Organization (RICO) eligible offenses the unauthorized possession with intent to distribute large quantities of tax-paid contraband cigarettes.

Effective: July 1, 2013
Amended: § 18.2-513

Penalties for Counterfeit Cigarettes

Senate Bill 1019 (Chapter 625) provides for criminal penalties for knowingly possessing or distributing counterfeit cigarettes, as follows:

- Fewer than 10 cartons—Class 1 misdemeanor for the first offense; Class 6 felony for the second or subsequent offense
- 10 or more cartons—Class 6 felony

Counterfeit cigarettes are cigarettes that (i) have false manufacturing labels, (ii) are not manufactured by the manufacturer indicated on the container, or (iii) have affixed to the container a false tax stamp. Knowingly possessing or distributing counterfeit cigarettes is subject to civil penalties under current law.

Effective: July 1, 2013
Amended: §§ 18.2-246.13, 18.2-246.14, 18.2-246.15, 19.2-245.01

Electronic Filing of Cigarette and Other Tobacco Products Taxes

Senate Bill 1021 (Chapter 381) authorizes the Attorney General and the Department of Taxation to allow the reports required to be submitted by stamping agents to be filed electronically. The Act also authorizes the Department of Taxation to allow the reports required to be submitted by manufacturers producing cigarettes and tobacco products to be filed electronically. Additionally, the Act authorizes the Department to allow for the electronic purchase and payment of Virginia cigarette tax revenue stamps.

Pursuant to *Va. Code* § 58.1-1001, the Commonwealth imposes a state cigarette tax at the rate of 1.5 cents per cigarette (30 cents per pack of 20 cigarettes). The cigarette tax is paid by stamping agents through the purchase of stamps, which under *Va. Code* § 58.1-1003 must be affixed to each individual package, bag, box, or can from which cigarettes are sold. Currently, only manufacturers, wholesale dealers and retail dealers may be permitted as stamping agents. No person may purchase, possess or affix Virginia revenue stamps without first obtaining a permit to do so from the Department. In order to obtain a stamping permit, a person must submit an application and application fee of \$600 to the Department, which conducts a background investigation on the applicant.

2013 LEGISLATIVE SUMMARY – STATE TAXES

Under preexisting law, stamping agents must file the Stamping Agent's Monthly Report of Virginia-Stamped Cigarettes with the Attorney General. The report covers the total number of cigarettes, listed by brand family, for which the stamping agent affixed stamps or otherwise paid the tax due.

Stamping agents must also file the Monthly Report of a Cigarette Stamping Agent with the Department. The report covers all revenue stamps the stamping agent affixed to cigarettes, including brand, quantity, and manufacturer. This report also covers the kinds and quantities of cigarettes purchased and received, as well as out-of-state orders for cigarettes through the stamping agent on a drop shipment and consigned directly to the person ordering the cigarettes.

Manufacturers producing cigarettes must file the Monthly Report of a Cigarette Manufacturer with the Department identifying all purchasers of cigarettes, with the quantities and brands of cigarettes purchased during the preceding month. Tobacco product manufacturers shipping tobacco products into the Commonwealth must file an annual report with the Department of the names and addresses of the persons receiving the shipments, and the type of product, brand, and quantities of tobacco products that were shipped.

Effective: July 1, 2013

Amended: §§ 3.2-4209, 58.1-1003, 58.1-1008, 58.1-1008.1, 58.1-1009, 58.1-1021.02:1

MOTOR VEHICLE RENTAL TAX

Exclusions from the Motor Vehicle Rental Tax

House Bill 1993 (Chapter 84) excludes the following from the gross proceeds upon which the Motor Vehicle Rental Taxes and Fee are applied: 1) cash discounts taken on a contract; 2) finance charges, carrying charges, service charges, and interest from credit given on a contract; 3) charges for motor fuels; 4) charges for optional accidental death insurance; 5) Motor Vehicle Sales and Use Tax; 6) violations, citations, or fines and related penalties and fees; 7) delivery charges, pickup charges, recovery charges, or drop charges; 8) pass-through charges; 9) transportation charges; 10) third-party service charges; and 11) refueling surcharges.

Currently, “gross proceeds” is defined as the charges made or voluntary contributions received for the rental of a motor vehicle where the rental or lease agreement is for a period of less than 12 months for the purposes of the Motor Vehicle Rental Taxes and Fee.

The Motor Vehicle Rental Tax is imposed on motor vehicles with a gross vehicle weight rating or gross combined weight rating of 26,000 pounds or less at a rate of 4% of the gross proceeds. An additional motor vehicle rental tax is imposed on the rental of every motor vehicle regardless of the weight, except for motorcycles and manufactured homes, at a rate of 4% of the gross proceeds. A 2% rental fee is also levied on the gross proceeds from the rental of motor vehicles, except for motorcycles and manufactured homes. Most passenger vehicles that are rented are subject to all of the taxes and fee at a combined rate of 10% of the gross proceeds.

Effective: Rental periods beginning on or after July 1, 2013.
Amended: § 58.1-1009

RETAIL SALES AND USE TAX

Accelerated Sales Tax

Item No. 273 (N) of the 2013 Appropriation Act (Chapter 806) increases the annual threshold for dealers and direct payment permit holders (“Dealers”) to make accelerated sales tax payments from \$26 million of taxable sales and/or purchases to \$48.5 million of taxable sales and/or purchases effective for the June, 2014 payment. The threshold continues to be \$26 million for the June, 2013 payment. Dealers with taxable sales and/or purchases exceeding the threshold are required to make a payment in June equal to 90 percent of its Retail Sales and Use Tax liability for June of the previous year. This tax payment is required to be remitted on or before June 25, 2013, if the payment is made by other than electronic transfer, and by July 1, 2013, if payments are made by electronic fund transfer. Affected Dealers will be entitled to take a credit for this amount on the return for June of the current year due July 20. The Department will notify all affected Dealers and provide them with payment instructions and a payment voucher for the additional payment.

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.

Effective: For the Accelerated Sales Tax Payment due June 2014

Increase in Retail Sales and Use Tax

House Bill 2313 (Chapter 766) increases the state portion of the Retail Sales and Use Tax from 4 percent to 4.3 percent effective July 1, 2013. It also imposes an additional state sales and use tax of 0.7 percent effective July 1, 2013 in the Northern Virginia and Hampton Roads regions. The additional taxes do not apply to food purchased for human consumption. The Northern Virginia Region consists of the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. The Hampton Roads Region consists of the Counties of Isle of Wight, James City, Southampton, and York and the Cities of Chesapeake, Franklin, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg.

Effective: July 1, 2013

2013 LEGISLATIVE SUMMARY – STATE TAXES

Amended: §§ 33.1-221.1:1.3, 58.1-603, 58.1-604, 58.1-604.1, 58.1-608.3, 58.1-614, 58.1-638, 58.1-639
Adds: §§ 15.2-4838.01, 33.1-23.5:3, 58.1-603.1, 58.1-604.01, 58.1-638.3

Collection of Sales and Use Tax from Remote Sellers Tied to Passage of Federal Legislation

House Bill 2313 (Chapter 766) establishes procedures for the collection of the sales and use tax from remote sellers for sales made in the Commonwealth, if federal legislation is enacted authorizing such collection. It repeals the application of the local sales and use tax to the sale of certain fuels used for domestic consumption and would replace the revenue for the localities that imposed the sales and use tax with a portion of the new revenues generated by the Act. An amount equal to each locality's revenue from its tax on fuels for domestic consumption in the calendar year prior to the repeal would be paid to the locality, not exceeding an aggregate of \$7.5 million per year. If the total aggregate amount exceeds \$7.5 million, then each locality would receive a pro rata portion of the \$7.5 million.

The Act also grants the Tax Commissioner broad authority to take any administrative action he deems necessary to ensure that the state complies with the federal legislation's minimum simplification requirements, including, for example, providing software to remote sellers to correctly calculate the sales and use tax rate owed, requiring that no more than one sales tax return be filed per month, and relieving remote sellers of liability for errors that result from information provided by the Department.

The Act also stipulates that if such federal legislation is not passed into law by January 1, 2015, the wholesale tax on gasoline will increase from 3.5 percent to 5.1 percent and the amount of general funds transferred to the Highway Maintenance and Operating Fund will not increase after Fiscal Year 2015.

Effective: 30 days after the effective date of the federal legislation
Amended: 58.1-601, 58.1-602, 58.1-612, as it is currently effective and as it may become effective, 58.1-615, 58.1-625, as it is currently effective and as it shall become effective, 58.1-635
Adds: 58.1-638.2
Repeals: §§ 58.1-609.13

Entitles Town of Wise and City of Fredericksburg to Sales and Use Tax Revenue Generated by Certain Public Facilities

House Bill 1785 (Chapter 568) and Senate Bill 1225 (Chapter 724) add the Town of Wise and the City of Fredericksburg to the list of municipalities eligible to receive certain sales tax revenues generated by qualifying public facilities in their jurisdiction to repay bonds issued to pay the costs of such facilities. These Acts also expand the list of bonds eligible to be repaid from such sales tax revenues to include bonds issued on or after January 1, 2013, but prior to January 1, 2017.

Virginia law allows sales tax revenue attributable to sales in new or substantially and significantly renovated or expanded public facilities to be transferred back to municipalities to pay the costs of the bonds issued to finance such facilities. Qualifying public facilities include auditoriums, coliseums, convention centers, conference centers, and certain hotels and sports facilities located in the Cities of Hampton, Lynchburg, Newport News, Norfolk, Portsmouth, Richmond, Roanoke, Salem, Staunton, Suffolk, Virginia Beach, and Winchester. In 2012, the Virginia General Assembly enacted legislation that expanded the definition of public facilities for purposes of the sales tax entitlement to include development projects that meet the requirements for a development of regional impact and are located in the City of Bristol.

Sales tax revenues generated from all transactions taking place in the facility, including, but not limited to, concessionaires sales, vending machine sales, and merchandise sales, are transferred back to the municipality. Entitlement to these sales tax revenues continues for the lifetime of the bonds, but not beyond 35 years, and all such revenues are required to be applied to the repayment of the bonds. No remittance is made until construction of the facility is complete.

Under the terms of this Act, sales and use tax revenues do not include the 0.5% sales and use tax revenue that is allocated to the Transportation Trust Fund, the 1% tax revenue distributed among localities on the basis of school-age population, the 0.25% appropriated to the Public Education Standards of Quality/Local Real Estate Property Tax Relief, or any sales and use tax revenues generated by increases or allocation changes imposed by the 2013 General Assembly.

Effective: July 1, 2013
Amended: § 58.1-608.3

Entitles City of Virginia Beach to Sales and Use Tax Revenue Generated by a Proposed Arena

House Bill 2320 (Chapter 767) entitles the City of Virginia Beach, subject to appropriation, to sales and use tax revenues generated as a result of the construction and operation of a National Hockey League (“NHL”) or National Basketball Association (“NBA”) arena to hold games, conferences and entertainment events. The Tax Commissioner is required to report annually to the Chairmen of the Senate and House Finance Committees and the Chairman of the House Appropriations Committee the amount of the entitlement. Additionally, under the provisions of this Act, the issuance of bonds will require the prior review by the State Treasurer, and if the State Treasurer and the Debt Capacity Advisory Committee determine that the bonds contemplated to be issued would constitute tax supported debt or have an adverse impact on the Commonwealth’s debt capacity or credit ratings, the bonds must be authorized by the General Assembly.

Under the terms of this Act, sales and use tax revenues do not include the 0.5% sales and use tax revenue that is allocated to the Transportation Trust Fund, the 1% tax revenue distributed among localities on the basis of school-age population, the 0.25% appropriated to the Public Education Standards of Quality/Local Real Estate Property Tax Relief, or any sales and use tax revenues generated by increases or allocation changes imposed by the 2013 General Assembly.

This Act also permits the Authority to issue bonds to construct an arena. In order for such bonds to be issued for an NBA or NHL arena, the NBA or NHL must allow a NBA or NHL team to be located in the City of Virginia Beach.

The provisions of this Act will expire on January 1, 2018, unless the City of Virginia Beach has (i) executed a lease with a team that is a member of either the NHL or the NBA; or (ii) issued bonds for an arena in order to hold conferences and entertainment events. If the City of Virginia Beach has executed a lease or issued bonds prior to January 1, 2018, the provisions of this Act will expire on the earliest of the maturity date of bonds issued by the City or the Development Authority; or July 1, 2043.

Effective: July 1, 2013
Amended: §§ 15.2-5921 through 15.2-5927

Sales and Use Tax Exemption for Pollution Control Equipment

House Bill 1399 (Chapter 10) clarifies that pollution control equipment certified by the Department of Mines, Minerals and Energy (“DMME”) for coal, oil, and gas production continues to be exempt from the Retail Sales and Use Tax even though a retroactive clause in the exemption expired on July 1, 2006.

Prior to the 1995 General Assembly Session, the Retail Sales and Use Tax exemption for certified pollution control equipment was not available for equipment used for coal, oil, and gas production. Legislation in the 1995 General Assembly Session provided an exemption for pollution control equipment certified by the DMME for coal, oil, and gas. Legislation in the 1995 General Assembly Session also retroactively allowed such pollution control equipment to qualify for the exemption beginning July 1, 1994. The retroactive exemption was extended in 1996 and 2001, but expired on July 1, 2006. However, the non-retroactive component of the exemption for pollution control equipment certified by DMME remains in effect.

Effective: July 1, 2013
Amended: § 58.1-609.3

Clarifies Exemption for Harvesting of Forest Products

House Bill 2054 (Chapter 223) clarifies that for purposes of the Retail Sales and Use Tax exemption available for machinery, tools, equipment, fuel, energy, and supplies used directly in the harvesting of forest products, the term “harvesting of forest products” includes all operations prior to the transport of the harvested product used for: 1) removing timber or other forest products from the harvesting site; (ii) complying with environmental protection and safety requirements applicable to the harvesting of forest products; (iii) obtaining access to the harvesting site; and (iv) loading cut timber or other forest products onto highway vehicles for transportation to storage or processing facilities.

Effective: July 1, 2013
Amended: § 58.1-609.2

Clarification of the Exemption for Certain Separately Stated Charges for Rented or Leased Property

House Bill 2236 (Chapter 90) clarifies that the current Retail Sales and Use Tax exemption that applies to separately stated installation, application, remodel and repair charges on property for sale also applies when property is leased or rented.

Currently, the term “sale” is defined to include the lease or rental of tangible personal property. Based upon this definition, if an exemption is available on the sale of certain tangible personal property or services, a similar exemption also applies to the lease of that property or service, unless otherwise provided by law. This Act highlights this concept for the exemption for separately stated installation, application, remodel and repair charges.

Effective: July 1, 2013
Amended: § 58.1-609.5

Expansion of the Exemption for Hurricane Preparedness Items

Senate Bill 766 (Chapter 325) adds gas-powered chainsaws with a selling price of \$350 or less and chainsaw accessories to the list of items that qualify for exemption during the sales tax holiday for hurricane preparedness items.

Current law provides temporary periods, known as “sales tax holidays” during which certain items can be purchased exempt of the Retail Sales and Use Tax. During the hurricane preparedness sales tax holiday, which begins each year on May 25 and ends on May 31, portable generators with a selling price of \$1,000 or less and certain other statutorily specified items with a sales price of \$60 or less per item may be purchased exempt of the Retail Sales and Use Tax. These items include blue ice, carbon monoxide detectors, cell phone batteries and chargers, gas and diesel fuel tanks, food storage coolers, self-powered, two-way, and weather band radios, storm shutter devices, tarpaulins, ground anchor systems, and certain batteries. The hurricane preparedness sales tax holiday is set to expire on July 1, 2017.

Effective: July 1, 2013
Amended: § 58.1-611.3

Titling and Registration of Mopeds and Distinctive License Plates for Low-Speed Vehicles

Senate Bill 1038 (Chapter 783) provides that all-terrain vehicles, off-road motorcycles, and mopeds shall be subject to the Retail Sales and Use Tax and exempts them from the Motor Vehicle Sales and Use Tax. This Act further classifies mopeds for valuation purposes in personal property taxation and allows localities to exempt mopeds from personal property taxation. The Act makes other largely technical changes based upon recommendations made by DMV after a year-long study of Virginia's laws relating to non-conventional vehicles.

Effective: July 1, 2013

Amended: §§ 46.2-100, 58.1-602, 58.1-2403, 58.1-3503, 58.1-3504, and 58.1-3523

TRANSIENT OCCUPANCY TAXES

New State Transient Occupancy Tax

House Bill 2313 (Chapter 766) imposes a new two percent state transient occupancy tax (“regional transient occupancy tax”) in the Northern Virginia region effective July 1, 2013. The Northern Virginia region consists of the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. The new regional transient occupancy tax is a state tax, but is administered and collected by the locality in which the room or space is located in the same manner as its current local transient occupancy tax.

Under current law, counties are authorized to impose local transient occupancy taxes by ordinance on hotels, motels, boarding houses, travel campgrounds, and other guest room facilities rented out for continuous occupancy for less than 30 days. The tax applies to rooms intended for dwelling and sleeping and is not imposed upon rooms used for alternative purposes, such as banquet and meeting rooms. Counties may not levy the tax within the limits of an incorporated town unless the town grants the county the authority to do so. Generally, counties are authorized to impose the transient occupancy tax at a maximum rate of two percent, although a number of counties are statutorily authorized to increase the rate to a maximum of five percent.

Cities and towns are granted the authority to levy lodging taxes under the “general taxing powers” found in their charters and are not limited in the rate of the tax they may impose. Neither cities nor towns are limited to taxing rentals of less than 30 days. As with the county taxes, cities and towns may only apply the tax to rooms intended for dwelling and sleeping and not to rooms used for alternative purposes, such as banquet and meeting rooms.

In addition to local transient occupancy taxes, the state and local Retail Sales and Use Tax applies to the sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for less than 90 continuous days.

Effective: July 1, 2013
Adds: § 58.1-1742

EXCISE TAX

Extension of the Current Peanut Excise Tax Rate

House Bill 1320 (Chapter 6) and Senate Bill 698 (Chapter 40) extend the expiration date of the current \$0.30 per 100 pounds rate of the Peanut Excise Tax from July 1, 2013 to July 1, 2016. Beginning July 1, 2016, the tax will revert to the rate of \$0.15 per 100 pounds.

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.

Effective: July 1, 2013
Amended: § 3.2-1905

LOCAL TAX

LEGISLATION

GENERAL PROVISIONS

Real Property Tax Payment Agreements for Delinquent Taxes

House Bill 1401 (Chapter 334) extends the maximum permitted period for installment payment agreements between local treasurers and property owners owing delinquent taxes, penalties, and interest from 24 months to 36 months. This Act also requires that notice be given to the taxpayer that the taxpayer may request that the treasurer allow the taxpayer to enter into a payment agreement to permit the payment of the delinquent taxes, penalties and interest. Additionally, this Act will authorize the circuit court in which an action for a judicial sale is pending, on its own motion or on the motion of any party, to refer the parties to a dispute resolution proceeding.

Under current law, when taxes are delinquent on the last day of the year following the two-year anniversary date on which such taxes were due, localities are authorized to sell the real estate for the purpose of collecting all delinquent taxes on such property. Owners of the property may redeem it at any time prior to the date of the sale by paying all accumulated delinquent taxes, penalties, reasonable attorney's fees, interest and costs, and in some instances, are permitted to set up installment payment agreements with the local treasurer for a maximum period of 24 months.

Effective: July 1, 2013

Amended: § 58.1-3965

State and Local Agencies Among Those Required to File Lists of Boat Owners

Senate Bill 1270 (Chapter 804) specifies that state and local agencies operating marinas or boat storage facilities with four or more boats are among the persons that, upon the local commissioner of the revenue's request, must file an annual list with the commissioner of the revenue providing the name and address of the owner and operator and the name and number of each boat physically located and normally kept at the marina or boat storage facility by February 1 of each year. The Act addresses the uncertainty under prior law as to whether the mandate applies to state and local agencies operating marinas or boat storage facilities.

Effective: July 1, 2013

Amended: § 58.1-3131

COLLECTION OF LOCAL TAXES

Treasurers May Transmit Bills from Database

House Bill 1982 (Chapter 299) authorizes local treasurers, with the taxpayer's consent, to transmit local tax bills by allowing the taxpayer to view his bill online from a database on the treasurer's website.

Under current law, upon the written consent of the taxpayer, treasurers in any locality may transmit local tax bills by electronic means chosen by the taxpayer, including facsimile transmission or electronic mail, in lieu of sending the bill through first class mail.

Local treasurers are generally required to send every taxpayer assessed with taxes and levies a bill setting forth the amount due no later than 14 days prior to the due date of the taxes. The treasurer may elect not to send a bill amounting to \$20 or less. If the taxes are not paid by the due date, the local treasurer must send the taxpayer a past-due tax bill.

As an alternative and with the taxpayer's written consent, local treasurers may transmit local tax bills by electronic means chosen by the taxpayer, including facsimile transmission or electronic mail, in lieu of sending the bill by first-class mail. The treasurer must maintain a copy of the bill with the date of transmission until the bill is satisfied or removed from the treasurer's books by operation of law. Bills transmitted electronically have the same force and effect as mailing by first-class mail.

Effective: July 1, 2013
Amended: § 58.1-3912

OTHER LOCAL TAXES

Grantor's Fee

House Bill 2313 (Chapter 766) imposes an additional Grantor's Fee in the Northern Virginia region of \$0.15 per \$100 valuation, when the consideration or value of the interest, whichever is greater, equals or exceeds \$100, effective July 1, 2013. The Northern Virginia region consists of the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. The Grantor's Fee is paid by the grantor, or any person who signs on behalf of the grantor, and collected by the clerk of the court.

Effective: July 1, 2013
Adds: § 58.1-802.2

Stafford County Authorized to Levy Local Admissions Tax

Senate Bill 1262 (Chapter 654) authorizes Stafford County, beginning July 1, 2014, to impose a tax at a maximum rate of ten percent on admissions to an entertainment venue that (i) is licensed to do business in the county for the first time on or after July 1, 2013; and ii) requires at least 75 acres of land that is purchased or leased by the entertainment venue owner on or after June 1, 2013. The provisions of the Act will expire on July 1, 2015 if Stafford County does not have an entertainment venue that meets these requirements by that time.

Under current law, cities and towns that have general taxing powers in their charters may impose an excise tax on admissions. However, counties are limited in their taxing powers. Only those counties that are authorized by statute may impose the admissions tax, and must do so according to the limitations set forth by statute.

Currently, Arlington, Brunswick, Culpepper, Dinwiddie, Fairfax, New Kent, and Prince George Counties are authorized to levy a tax on admissions to any event at a maximum rate of ten percent of the amount charged for admission.

Virginia law classifies events to which admissions are charged according to five groups, which include: 1) events from which gross receipts are dedicated entirely to charitable purposes; 2) admissions charged for events sponsored by public and private educational institutions; 3) admissions charged for entry into museums, botanical or similar gardens, and zoos;

2013 LEGISLATIVE SUMMARY – LOCAL TAXES

4) admissions charged for sporting events; 5) admissions charged for entry into major league baseball games and events at any major league baseball stadium which has seating for at least 40,000 persons; and 6) all other admissions.

Each of the counties authorized to impose an admissions tax must do so by ordinance. Localities have the authority to tax each class of admissions with the same or with a different tax rate. Additionally, counties may elect not to levy the tax for events that are conducted solely to raise money for charitable purposes, provided the proceeds of the event are transferred to an entity that qualifies for exemption from the state Retail Sales and Use Tax as a nonprofit entity.

Effective: July 1, 2013
New: § 58.1-3818.02

TRANSIENT OCCUPANCY TAXES

Authorizes Dickenson County, Greenville County and Grayson County to Increase Transient Occupancy Tax Rate

House Bill 1670 (Chapter 200) and Senate Bill 980 (Chapter 378) add Dickenson County to the list of localities that are currently authorized to impose the transient occupancy tax at a maximum rate of five percent. Revenues from the portion of tax in excess of two percent would be required to be used solely for tourism or marketing of tourism.

House Bill 1797 (Chapter 19) adds Greenville County to the list of localities that are currently authorized to impose the transient occupancy tax at a maximum rate of five percent. Revenues from the portion of tax in excess of two percent would be required to be used solely for tourism or marketing of tourism.

Senate Bill 720 (Chapter 319) adds Grayson County to the list of localities that are currently authorized to impose the transient occupancy tax at a maximum rate of five percent. Revenues from the portion of tax in excess of two percent would be required to 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, 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. Therefore, the tax does not apply to such rooms used for alternative purposes, such as banquet rooms and meeting rooms. In addition, Virginia law separately identifies those counties that are authorized to 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.

Effective: July 1, 2013
New: § 58.1-3819

REAL ESTATE TAX

Real Property Tax Changes

House Bill 2313 (Chapter 766) requires the counties and cities wholly embraced by the Northern Virginia Transportation Authority to either 1) deposit revenues from the commercial and industrial property tax imposed at the maximum rate or 2) deposit an equivalent amount of other funds, other than those received from the Authority. If a locality does not do either of the options, then the revenues distributed to the locality under the Act will be reduced by the difference between the revenues the locality would receive if it was imposing the tax at the maximum rate and the amount actually deposited. The maximum rate is currently \$0.125 per \$100 of assessed value.

2007 House Bill 3202 (2007 *Acts of Assembly*, Chapter 896) authorized the counties and cities wholly embraced by the Northern Virginia Transportation Authority to impose, by ordinance, a property tax on commercial and industrial property at a rate not to exceed \$0.25 per \$100 of assessed value. In 2009, the maximum rate was reduced to \$0.125 per \$100 of assessed value. House Bill 3202 also authorized the counties and cities wholly embraced by the Hampton Roads metropolitan planning area to impose, by ordinance, a property tax on commercial and industrial property at a rate not to exceed \$0.10 per \$100 of assessed value. The tax may be imposed either 1) on all commercial and industrial property, or 2) on the commercial and industrial property located in special regional transportation tax districts created within the locality's boundaries.

Effective: July 1, 2013
Amended: §§ 15.2-4838.1

Changes to Local Boards of Equalization

House Bill 1598 (Chapter 197) makes a number of changes to various provisions governing local Boards of Equalization. This Act: 1) sets stricter requirements for legal and financial professionals serving on certain Boards of Equalization; 2) allows applications for complaints to the Board to be made electronically, and sets forth requirements for mailing and submitting paper applications; 3) specifies the evidence that a board may and may not consider in hearing complaints; 4) allows a taxpayer to appoint a representative who may apply to the Board on the taxpayer's behalf to adjust the assessment; and 5) prohibits the Board from increasing assessments on commercial, multifamily, residential or industrial property without the assessor's recommendation and compliance with certain procedures.

2013 LEGISLATIVE SUMMARY – LOCAL TAXES

Circuit courts within each county or city are authorized to appoint Boards of Equalization to hear complaints regarding real property assessments, and may increase, decrease, or confirm assessments based on fairness.

This Act requires that for Boards considering appeals of commercial or multi-family residential property in a locality with a population exceeding 100,000, the legal or financial professionals' practice areas must require knowledge of the valuation of property, real estate transactions, building costs, accounting, finance, or statistics. This Act also expands the pool of candidates that may serve on the board to include retired members of the Virginia State Bar.

This Act authorizes localities to receive complaints electronically, and mandates that for those taxpayers that continue to file their complaints by paper, the forms must be submitted before the established deadline, and, if mailed, the post mark date must be considered the date of receipt. This Act also prohibits a board from denying relief due to a lack of information on the application for complaints regarding residential property, provided the application includes the address, parcel number, and owner's proposed assessed value for the property; or for complaints regarding commercial, multifamily, or industrial property assessments, provided documentation of applicable assessment methodologies is submitted with the application, and the application includes the address, parcel number, and owner's proposed assessed value for the property.

This Act authorizes the Board to consider any statement of income and expense or market sales that occurred through December 31, prior to the effective date of the assessment, provided the information is submitted to the board no later than the locality's deadline for the application for relief. The Act prohibits the board from considering studies or analyses published after December 31 immediately preceding the effective date of the assessment for appeals filed relating to the assessment.

This Act allows the aggrieved taxpayer to appoint a representative to apply to the Board for the adjustment to fair market value and equalization of his assessment, provided the taxpayer provides an executed and properly notarized letter designating an appointed representative for the taxpayer.

This Act also requires that before a Board may increase an assessment on commercial, multifamily, residential or industrial property, the increase must be recommended by the assessor, after providing the Board with 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. The appraisal must affirm that the increase in value represents the property's fair market value as of the date of the assessment in dispute.

The provisions of this Act related to: i) electronic filing, ii) the evidence that a board may and may not consider, and iii) the appointment of a representative is effective for assessment appeals made for tax years beginning on or after January 1, 2014.

Effective: July 1, 2014
Amended: §§ 58.1-3374, 58.1-3378 through 58.1-3381

Real Property Assessments of Affordable Housing

House Bill 1553 (Chapter 249) authorizes owners of real property operating in whole or in part as affordable rental housing with expenses and expenditures common to two or more units to compel the assessor to make a pro rata apportionment of the expenses and expenditures to each unit based on each unit's assessed value as a percentage of the total assessed value of all such units, for purposes of determining the fair market value of such property. In order for the owners to obtain this authority: i) the two or more units of real property must be controlled by a single restrictive use agreement regulating income and rent restrictions; and ii) the expenses and expenditures cannot practicably be attributed to a particular unit. The provisions of this Act will apply regardless of whether the units are in one tax parcel or multiple tax parcels.

Owners of real property operated in whole or in part as affordable housing may apply to the locality in which the property is located to have the real property assessed under special rules for affordable housing. The locality must grant the application if 1) the owner charges rents at levels that meet the locality's definition of affordable housing and 2) the real property does not have any pending building code violations at the time of the application.

Under these special assessment rules, in order to determine the fair market value of real property that is operated as affordable rental housing, the real estate assessor must consider: 1) the contract rent and the impact of applicable rent restrictions; 2) the actual operating expenses and expenditures and the impact of any such additional expenses or expenditures and; 3) restrictions on the transfer of title or other restraints on alienation of the real property. The assessor must also consider evidence presented by the property owner of other restrictions imposed by law that impact these variables.

In general, real estate assessors may require the owners of all income producing real property to furnish a statement of income and expenses. An exception to the general requirement is allowed for income producing property solely from the rental of no more than four dwelling units. However, this exception does not apply to property assessed as affordable rental housing.

Effective: July 1, 2013
Amended: § 58.1-3295

Localities Granted Discretion to Impose Roll-Back Taxes on Real Property Tax

House Bill 1697 (Chapter 269) gives localities the discretion to elect, by ordinance, whether to impose rollback taxes and whether to allow a change in zoning to affect a property's eligibility for a land use taxation program when the property's zoning classification changes to a more intensive use at the request of the owner or his agent.

Land use valuation and taxation is intended to encourage conservation by providing tax relief to the owner of real estate devoted solely to agricultural, horticultural, forest, or open space use. Under land use taxation programs, the land dedicated to the special use is taxed at its use value, which is typically lower than its full fair market value. 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. Such owners must devote a minimum number of acres of real property to agricultural, horticultural, forest, or open space use.

Under prior law, when the qualified use of real estate changed to a nonqualified use or was zoned for a more intensive use at the request of the owner, roll-back tax liability attached to the land. Rollback taxes are the difference between what real the property taxes would have been had the property been assessed at fair market value and the real property taxes levied based upon use value. Liability for roll-back taxes attaches at the time the change in use or zoning occurs. Roll-back tax liability is computed by adding the amount of deferred taxes for the past five years and simple interest at the rate applicable to delinquent taxes. In localities that have adopted a sliding scale ordinance, the roll-back tax may be imposed for each of the tax years since the property became subject to land use taxation. Liability for roll-back taxes attaches and is paid to the treasurer only if the amount of tax due exceeds ten dollars.

Effective: July 1, 2013
Amended: §§ 15.2-1104, 15.2-1201.2

Real Property and Tangible Personal Property Tax in the City of Bedford

House Bill 1756 (Chapter 342) and Senate Bill 1041 (Chapter 384) are “Section 1” bills clarifying the transition of real and personal property taxation of property currently located in the City of Bedford that will become the Town of Bedford within the County of Bedford on July 1, 2013 due to the City’s reversion to town status. The County would be required to assess town and county real and personal property taxes on such property for a short tax year, beginning July 1, 2013 and ending December 31, 2013, with a January 1, 2013 tax day, but based on the City’s July 1, 2012 assessment of the property, at the rates imposed in the County and Town reduced by one-half to account for the short tax year. Additionally, the Act would authorize owners of real property in the Town to apply to both the County and the Town for the special use value assessment on qualifying property for the short tax year by submitting their application by August 1, 2013.

Currently, the City of Bedford and the County of Bedford are separate taxing jurisdictions.

Counties may not impose real property taxes on residents of independent cities, but they may impose such taxes on the residents of towns within their jurisdiction. Towns may also impose real property taxes on their residents.

Effective: July 1, 2013

Goochland County Exclusions from Land Use Valuation

Senate Bill 799 (Chapter 677) authorizes Goochland County to exclude from its land use assessment program any property located in a service district created after July 1, 2013 that (1) is in a planned development, industrial or commercial zoning district established prior to January 1, 1981 or (2) has been rezoned to allow a more intensive nonagricultural use at the request of the owner.

Under current law, the counties of Albemarle, Arlington, Augusta, James City, Loudoun, and Rockingham are permitted to exclude from their land use assessment programs any land (1) in a planned development, industrial or commercial zoning district established prior to January 1, 1981 or (2) which has been rezoned to allow a more intensive nonagricultural use at the request of the owner.

Effective: July 1, 2013
Amended: §§ 58.1-3237.1

SEVERANCE TAXES

Appeals Allowed for Local Gas Severance Taxes

House Bill 1771 (Chapter 208) and Senate Bill 1111 (Chapter 391) allow taxpayers to appeal additional assessments of local severance taxes for license years 2011 through 2013, that are made on or after January 1, 2014, for coal or gas severed from the earth prior to July 1, 2013. The Act authorizes the administrative or judicial appeals to be filed with the commissioner of the revenue or the circuit court within one year from the last day of the license year for which such assessment is made, or within one year from the date of the assessment or increase in the assessment, whichever is later.

Legislation enacted in the 2012 General Assembly Session provided that any person assessed with a severance tax for license years 2008 through 2013 may file an administrative appeal with the local assessing official only during the period beginning July 1, 2013, and ending July 1, 2014. Additionally, collection activity is suspended on the assessment of severance taxes for license years 2008 through 2011 until July 1, 2013. Collection activity for the license years 2012 and 2013 is also suspended until July 1, 2013 provided that the person filing the return for such taxes included with the return a good faith payment of the tax due or a good faith report of the tax due. Collection activity is not suspended if collection of any tax, interest, or penalty is jeopardized by delay, nor is collection activity suspended for any amount of unpaid license tax reported by a person as due in filing a severance tax return.

Effective: July 1, 2013
Amended: § 58.1-3713.3

Local Coal Severance Taxes

House Bill 2100 (Chapter 305) and Senate Bill 918 (Chapter 618) reduce the rates of the local coal severance tax and the local coal road improvement tax severed from the earth by small mines from one percent to 0.75 percent of the gross receipts from the sale or use of such coal. "Small mine" is defined as a mine that sells less than 10,000 tons of coal per month. These Acts also provide that gross receipts for the purpose of the local coal severance taxes are defined as the purchase price received by a producer for the sale of coal to an unaffiliated purchaser in an arm's length transaction. The cost of transporting the coal to the unaffiliated purchaser would be excluded from gross receipts. Costs incurred transporting coal to another county for processing and the costs of processing it in the other county would be allowed to be deducted from gross receipts. No other deductions will be authorized. These Acts also clarify

2013 LEGISLATIVE SUMMARY – LOCAL TAXES

that any person who only receives royalty payments is not considered to have an economic interest in the coal and is not subject to the taxes. The provisions of these Acts will be effective for coal sold or utilized on or after July 1, 2013.

These Acts provide that no provision shall change or affect, invalidate, or interfere with any agreement regarding coal severance license taxes entered into between a taxpayer and Commissioner of Revenue. These Acts also require localities imposing a coal severance license tax as of January 1, 2013, to amend their ordinances effective July 1, 2013, to be consistent with the bill.

Effective: July 1, 2013
Amended: §§ 15.2-6009, 45.1-161.62, 45.1-361.5, 45.1-361.38, 46.2-1143, 58.1-3343, 58.1-3712, 58.1-3713, 58.1-3713.01, 58.1-3713.3, 58.1-3930, 58.1-3932, 58.1-3959, 58.1-3740 through 58.1-3745; and to
Repeals: §§ 58.1-3713.1, 58.1-3713.2, 58.1-3713.5

Coal and Gas Road Improvement Fund

House Bill 2110 (Chapter 306) allows the localities that comprise the Virginia Coalfield Economic Development Authority, upon passage of a local ordinance or resolution, to use the portion of the revenue from the local coal and gas road improvement tax paid into the Coal and Gas Road Improvement Fund and currently dedicated to the construction, repair, or enhancement of water and sewer systems and lines also to use that portion of the revenue for the construction, repair, or enhancement of natural gas systems and lines. The revenue used for the construction, repair, or enhancement of natural gas systems and lines would not be allowed to exceed one-fourth of the revenue paid to the Fund collected from the road improvement tax on natural gas. The Virginia Coalfield Economic Development Authority is comprised of the City of Norton, and the Counties of Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, and Wise.

The localities that comprise the Virginia Coalfield Economic Development Authority may impose a local coal and gas road improvement tax that is capped at a rate of one percent of the gross receipts from the sale of coal and gases severed within the locality. Under current law, the revenues generated from this tax are allocated as follows: 75% are paid into a special fund in each locality called the Coal and Gas Road Improvement Fund, where at least 50% are spent on road improvements and 25% may be spent on new water and sewer systems within the locality; and the remaining 25% of the revenue is paid to the Virginia Coalfield Economic Development Fund. The authority for the local coal and gas road improvement tax will expire on December 31, 2014.

Effective: July 1, 2013
Amended: § 58.1-3713

TANGIBLE PERSONAL PROPERTY TAX

Separate Classification for Certain Vehicles Leased by Localities or Constitutional Officers

House Bill 1522 (Chapter 39) allows motor vehicles leased by a county, city, town or constitutional officer (sheriff, Commonwealth's Attorney, Circuit Court Clerk, Commissioner of the Revenue, and local treasurer) to be separately classified for purposes of the Tangible Personal Property Tax, provided that the locality or constitutional officer is obligated by the lease to pay the vehicle's tangible personal property tax. Localities are permitted to tax these vehicles at a rate not to exceed the rate applicable to the general class of tangible personal property. The Act also mandates that motor vehicles that fall under multiple classifications be taxed at the lowest rate assigned to such classifications.

Effective: July 1, 2013
Amended: § 58.1-3506

Separate Classification for Computer Equipment in Data Centers

House Bill 1699 (Chapter 271) and Senate Bill 1133 (Chapter 393) create a separate classification of property for computer equipment and peripherals used in a data center. Localities would be authorized to tax these items at a rate not to exceed the rate applied to the general class of tangible personal property. The Acts also mandate that if computers and peripheral equipment used in a data center fall under any of the other computer-related classifications, the computer equipment and peripherals are to be taxed at the lowest rate among those specified classifications.

Under current law, computers and peripheral equipment used in a data center fall under the general class of tangible personal property, and localities must impose tangible personal property tax on such property at the same rate as imposed on all other property in the general class of tangible personal property.

Under the terms of these Acts, "data center" would be defined as a facility whose primary services are the storage, management, and processing of digital data and is used to

house (i) computer and network systems, including associated components, such as servers, network equipment and appliances, telecommunications, and data storage systems; (ii) systems for monitoring and managing infrastructure performance; (iii) equipment used for the transformation, transmission, distribution or management of at least one megawatt of capacity of electrical power and cooling, including substations, uninterruptible power supply systems, all electrical plant equipment, and associated air handlers; (iv) internet-related equipment and services; (v) data communications connections; (v) environmental controls; (vii) fire protection systems; and (viii) security systems and services.

Effective: July 1, 2013

Amended: § 6.01

Separate Classification for Advertising Signs

House Bill 1860 (Chapter 287) and Senate Bill 1236 (Chapter 652) create a separate classification for valuation purposes under the Tangible Personal Property Tax for outdoor advertising signs adjacent to rights-of-way of highways. These Acts also prohibit a locality from levying the real property tax on outdoor advertising signs and from considering such signs or any income generated by such signs, in assessing the value of real property or any leasehold or easement interest in such real property.

Under current law, tangible personal property is classified under a number of separate classifications for valuation purposes, which are not to be considered separate classes for rate purposes. Further, under current law, when an item of tangible personal property is determined to be a fixture, it is treated as real property for purposes of local taxation.

Va. Code § 33.1-351 et. seq. regulates outdoor advertising signs in areas adjacent to the rights-of-way of highways in Virginia. While the Code does not specifically identify the types of signs included under this list, there are a number of signs that are exempt from the Code's regulatory provisions if they are securely attached to real property or advertising structures. These include: 1) certain advertisements securely attached to a place of business or residence; 2) signs on farms that are erected or maintained by the owner or lessee of the farm; 3) certain "for sale or rent" signs; 4) official notices or advertisements posted by public or court officers; 5) certain danger or precautionary signs; 6) notices of telephone, telegraph, or transportation companies necessary to direct the public to such utility; 7) signs for the information of aviators as to location, direction and landings and conditions affecting safety; 8) certain signs bearing an announcement of any county, town, village, or city, or historic place or shrine; 9) certain signs denoting the distance or direction of a church, residence or place of business; 10) signs giving the name of the owner, lessee, or occupant of the premises; 11) advertisements and structures within the corporate limits of cities and towns; 12) certain historical markers; 13) highway

2013 LEGISLATIVE SUMMARY – LOCAL TAXES

markers and signs erected by the Commissioner or the Commonwealth Transportation Board; 14) signs erected upon property warning against hunting, fishing or trespassing; 15) signs relating to Red Cross Emergency Stations; 16) signs advertising agricultural or horticultural products produced by the person who erects and maintains the signs; 17) signs advertising the name, time, and place of county, district, or state fairs; 18) certain signs denoting the name of a civic service club or church location and the direction for reaching; and 19) advertising signs or notices authorized by a county and securely affixed to a public transit passenger shelter owned by the county.

Effective: Tax years beginning on or after January 1, 2013.
(The bills contained an emergency clause, which made the provision effective March 13, 2013, when the Governor signed HB 1860)

Amended: §§ 58.1-3503, 58.1-3506

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Index by Bill Number

<u>Bill No</u>	<u>Chapter</u>	<u>Subject</u>	<u>Page</u>
HB 1320	6	Extension of the Current Peanut Excise Tax Rate	31
HB 1398	798	Land Preservation Tax Credit Cap.....	6
HB 1399	10	Sales and Use Tax Exemption for Pollution Control Equipment.....	27
HB 1401	334	Real Property Tax Payment Agreements for Delinquent Taxes	33
HB 1500	806	Electronic Filing Mandate for Employer Withholding Tax Forms	2
HB 1500	806	Electronic Filing and Payment for Pass-Through Entities.....	3
HB 1500	806	Qualified Equity and Subordinated Debt Investments Tax Credit.....	16
HB 1500	806	Accelerated Sales Tax.....	23
HB 1522	39	Separate Classification for Certain Vehicles Leased by Localities or Constitutional Officers.....	45
HB 1553	249	Real Property Assessments of Affordable Housing.....	40
HB 1598	197	Changes to Local Boards of Equalization	38
HB 1670	200	Authorizes Dickenson County to Increase Transient Occupancy Tax Rate	37
HB 1697	269	Localities Granted Discretion to Impose Roll-Back Taxes on Real Property Tax	41
HB 1699	271	Separate Classification for Computer Equipment in Data Centers	45
HB 1756	342	Real Property and Tangible Personal Property Tax in the City of Bedford.....	42
HB 1771	208	Appeals Allowed for Local Gas Severance Taxes	43
HB 1783	567	Penalties Relating to Stamped and Unstamped Cigarettes.....	19
HB 1784	210	Reduced Insurance Premiums License Tax Rate for Certain Insurers.....	13
HB 1785	568	Entitles Town of Wise and City of Fredericksburg to Sales and Use Tax Revenue Generated by Certain Public Facilities	25
HB 1797	19	Authorizes Greensville County to Increase Transient Occupancy Tax Rate	37
HB 1820	570	Penalties Relating to Stamped and Unstamped Cigarettes.....	18
HB 1824	744	Virginia Port Volume Increase Tax Credit	16
HB 1860	287	Separate Classification for Advertising Signs.....	46
HB 1872	289	Investments Eligible for Tax Credits	15
HB 1923	294	Increase in Worker Retraining Tax Credit	7
HB 1982	299	Treasurers May Transmit Bills from Database	34
HB 1993	84	Exclusions from the Motor Vehicle Rental Tax.....	22
HB 1996	716	Neighborhood Assistance Act and Education Improvement Scholarships Tax Credits.....	8
HB 2039	22	Voluntary Contributions to the Chesapeake Bay Watershed Implementation Plan.....	7
HB 2047	801	Long-Term Health Care Insurance Tax Credit	12
HB 2054	223	Clarifies Exemption for Harvesting of Forest Products	27
HB 2059	23	Income Tax Credit for Landlords Participating in Housing Choice Voucher Programs.....	12
HB 2092	230	Confidentiality of Tax Information	2
HB 2100	305	Local Coal Severance Taxes.....	43
HB 2110	306	Coal and Gas Road Improvement Fund	44
HB 2145	28	Deposit of Tax Refunds into Virginia College Savings Plan Accounts	4
HB 2150	4	Advancement of Virginia's Fixed Date Conformity with the Internal Revenue Code.....	4

Index by Bill Number

<u>Bill No</u>	<u>Chapter</u>	<u>Subject</u>	<u>Page</u>
HB 2155	29	Technical Corrections to the Insurance Premiums License Tax.....	14
HB 2167	88	Deduction for Prepaid Funeral, Medical, and Dental Insurance Premiums.....	5
HB 2219	311	Bond and Letter of Credit Requirements.....	18
HB 2236	90	Clarification of the Exemption for Certain Separately Stated Charges for Rented or Leased Property	28
HB 2313	766	Increase in Retail Sales and Use Tax	23
HB 2313	766	Collection of Sales and Use Tax from Remote Sellers Tied to Passage of Federal Legislation.....	24
HB 2313	766	New State Transient Occupancy Tax.....	30
HB 2313	766	Grantor's Fee	35
HB 2313	766	Real Property Tax Changes	38
HB 2320	767	Entitles City of Virginia Beach to Sales and Use Tax Revenue Generated by a Proposed Arena	26
SB 0698	40	Extension of the Current Peanut Excise Tax Rate	31
SB 0720	319	Authorizes Grayson County to Increase Transient Occupancy Tax Rate.....	37
SB 0766	325	Expansion of the Exemption for Hurricane Preparedness Items	28
SB 0780	136	Reduced Insurance Premiums License Tax Rate for Certain Insurers.....	13
SB 0799	677	Goochland County Exclusions from Land Use Valuation	42
SB 0918	618	Local Coal Severance Taxes.....	43
SB 0932	374	Income Tax Credit for Landlords Participating in Housing Choice Voucher Programs.....	12
SB 0980	378	Authorizes Grayson County to Increase Transient Occupancy Tax Rate.....	37
SB 1009	802	Neighborhood Assistance Act Credit	11
SB 1017	623	Penalties Relating to Stamped and Unstamped Cigarettes.....	19
SB 1018	624	Penalties Relating to Stamped and Unstamped Cigarettes.....	19
SB 1019	625	Penalties for Counterfeit Cigarettes	20
SB 1020	626	Penalties Added and Increased for Possession with Intent to Distribute Contraband Cigarettes.....	19
SB 1021	381	Electronic Filing of Cigarette and Other Tobacco Products Taxes	20
SB 1022	627	Penalties Relating to Stamped and Unstamped Cigarettes.....	19
SB 1038	783	Titling and Registration of Mopeds and Distinctive License Plates for Low-Speed Vehicles	29
SB 1041	384	Real Property and Tangible Personal Property Tax in the City of Bedford.....	42
SB 1054	631	Voluntary Contributions to the Chesapeake Bay Watershed Implementation Plan.....	7
SB 1092	389	Bond and Letter of Credit Requirements.....	18
SB 1111	391	Appeals Allowed for Local Gas Severance Taxes	43
SB 1133	393	Separate Classification for Computer Equipment in Data Centers	45
SB 1216	163	Technical Corrections to the Insurance Premiums License Tax.....	14
SB 1220	402	Deposit of Tax Refunds into Virginia College Savings Plan Accounts	4
SB 1225	724	Entitles Town of Wise and City of Fredericksburg to Sales and Use Tax Revenue Generated by Certain Public Facilities.....	25
SB 1227	713	Neighborhood Assistance Act and Education Improvement	

Index by Bill Number

<u>Bill No</u>	<u>Chapter</u>	<u>Subject</u>	<u>Page</u>
		Scholarships Tax Credits.....	8
SB 1236	652	Separate Classification for Advertising Signs.....	46
SB 1241	693	Advancement of Virginia's Fixed Date Conformity with the Internal Revenue Code.....	4
SB 1262	654	Stafford County Authorized to Levy Local Admissions Tax.....	35
SB 1270	804	State and Local Agencies Among Those Required to File Lists of Boat Owners	33
SB 1296	657	Unclaimed Tax Credits Declared Obsolete	13

Index by Chapter Number

<u>Bill No</u>	<u>Chapter</u>	<u>Subject</u>	<u>Page</u>
HB 2150	4	Advancement of Virginia's Fixed Date Conformity with the Internal Revenue Code.....	4
HB 1320	6	Extension of the Current Peanut Excise Tax Rate	31
HB 1399	10	Sales and Use Tax Exemption for Pollution Control Equipment.....	27
HB 1797	19	Authorizes Greensville County to Increase Transient Occupancy Tax Rate	37
HB 2039	22	Voluntary Contributions to the Chesapeake Bay Watershed Implementation Plan.....	7
HB 2059	23	Income Tax Credit for Landlords Participating in Housing Choice Voucher Programs	12
HB 2145	28	Deposit of Tax Refunds into Virginia College Savings Plan Accounts	4
HB 2155	29	Technical Corrections to the Insurance Premiums License Tax.....	14
HB 1522	39	Separate Classification for Certain Vehicles Leased by Localities or Constitutional Officers.....	45
SB 0698	40	Extension of the Current Peanut Excise Tax Rate	31
HB 1993	84	Exclusion from the Motor Vehicle Rental Tax	22
HB 2167	88	Deduction for Prepaid Funeral, Medical, and Dental Insurance Premiums.....	5
HB 2236	90	Clarification of the Exemption for Certain Separately Stated Charges for Rented or Leased Property	28
SB 0780	136	Reduced Insurance Premiums License Tax Rate for Certain Insurers.....	13
SB 1216	163	Technical Corrections to the Insurance Premiums License Tax.....	14
HB 1598	197	Changes to Local Boards of Equalization	38
HB 1670	200	Authorizes Dickenson County to Increase Transient Occupancy Tax Rate	37
HB 1771	208	Appeals Allowed for Local Gas Severance Taxes	43
HB 1784	210	Reduced Insurance Premiums License Tax Rate for Certain Insurers.....	13
HB 2054	223	Clarifies Exemption for Harvesting of Forest Products.....	27
HB 2092	230	Confidentiality of Tax Information	2
HB 1553	249	Real Property Assessments of Affordable Housing	40
HB 1697	269	Localities Granted Discretion to Impose Roll-Back Taxes on Real Property Tax.....	41
HB 1699	271	Separate Classification for Computer Equipment in Data Centers	45
HB 1860	287	Separate Classification for Advertising Signs.....	46
HB 1872	289	Investments Eligible for Tax Credits	15
HB 1923	294	Increase in Worker Retraining Tax Credit	7
HB 1982	299	Treasurers May Transmit Bills from Database	34
HB 2100	305	Local Coal Severance Taxes.....	43
HB 2110	306	Coal and Gas Road Improvement Fund	44
HB 2219	311	Bond and Letter of Credit Requirements	18
SB 0720	319	Authorizes Grayson County to Increase Transient Occupancy Tax Rate.....	37
SB 0766	325	Expansion of the Exemption for Hurricane Preparedness Items	28
HB 1401	334	Real Property Tax Agreements for Delinquent Taxes	33
HB 1756	342	Real Property and Tangible Personal Property in the City of Bedford.....	42

Index by Chapter Number

<u>Bill No</u>	<u>Chapter</u>	<u>Subject</u>	<u>Page</u>
SB 0932	374	Income Tax Credit for Landlords Participating in Housing Choice Voucher Programs.....	12
SB 0980	378	Authorizes Grayson County to Increase Transient Occupancy Tax Rate.....	37
SB 1021	381	Electronic Filing of Cigarette and Other Tobacco Products Taxes	20
SB 1041	384	Real Property and Tangible Personal Property Tax in the City of Bedford.....	42
SB 1092	389	Bond and Letter of Credit Requirements.....	18
SB 1111	391	Appeals Allowed for Local Gas Severance Taxes	43
SB 1133	393	Separate Classification for Computer Equipment in Data Centers	45
SB 1220	402	Deposit of Tax Refunds into Virginia College Savings Plan Accounts	4
HB 1783	567	Penalties Related to Stamped and Unstamped Cigarettes	19
HB 1785	568	Entitles Town of Wise and City of Fredericksburg to Sales and Use Tax Revenue Generated by Certain Public Facilities.....	25
HB 1820	570	Penalties Relating to Stamped and Unstamped Cigarettes	18
SB 0918	618	Local Coal Severance Taxes.....	43
SB 1017	623	Penalties Relating to Stamped and Unstamped Cigarettes	19
SB 1018	624	Penalties Relating to Stamped and Unstamped Cigarettes	19
SB 1019	625	Penalties for Counterfeit Cigarettes	20
SB 1020	626	Penalties Added and Increased for Possession with Intent to Distribute Contraband Cigarettes	19
SB 1022	627	Penalties Relating to Stamped and Unstamped Cigarettes	19
SB 1054	631	Voluntary Contributions to the Chesapeake Bay Watershed Implementation Plan.....	7
SB 1236	652	Separate Classification for Advertising Signs.....	46
SB 1262	654	Stafford County Authorized to Levy Local Admissions Tax.....	35
SB 1296	657	Unclaimed Tax Credits Declared Obsolete	13
SB 0799	677	Goochland County Exclusions from Land Use Valuation	42
SB 1241	693	Advancement of Virginia's Fixed Date Conformity with the Internal Revenue Code.....	4
SB 1227	713	Neighborhood Assistance Act and Education and Improvement Scholarships Tax Credit.....	8
HB 1996	716	Neighborhood Assistance Act and Education Improvement Scholarship Tax Credits	8
SB 1225	724	Entitles Town of Wise and City of Fredericksburg to Sales and Use Tax Revenue Generated by Certain Public Facilities.....	25
HB 1824	744	Virginia Part Volume Increase Tax Credit	16
HB 2313	766	Increase in Retail Sales and Use Tax.....	23
HB 2313	766	Collection of Sales and Use Tax from Remote Sellers Tied to Passage of Federal Legislation	24
HB 2313	766	New State Transient Occupancy Tax	30
HB 2313	766	Grantor's Fee	35
HB 2313	766	Real Property Tax Changes	38
HB 2320	767	Entitles City of Virginia Beach to Sales and Use Tax Revenue Generated by a Proposed Arena	26
SB 1038	783	Titling and Registration of Mopeds and Distinctive License Plates for Low-Speed Vehicles.....	29
HB 1398	798	Land Preservation Tax Credit Cap.....	6

Index by Chapter Number

<u>Bill No</u>	<u>Chapter</u>	<u>Subject</u>	<u>Page</u>
HB 2047	801	Long-Term Health Care Insurance Tax Credit	12
SB 1009	802	Neighborhood Assistance Act Credit	11
SB 1270	804	State and Local Agencies Among Those Required to File Lists of Boat Owners	33
HB 1500	806	Electronic Filing Mandate for Employer Withholding Tax Forms	2
HB 1500	806	Electronic Filing Mandate for Pass-Through Entities	3
HB 1500	806	Qualified Equity and Subordinated Debt Investments Tax Credit.....	16
HB 1500	806	Accelerated Sales Tax.....	23