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**HOUSE BILL NO. 811**

Offered January 14, 2004

Prefiled January 14, 2004

*A BILL to amend and reenact §§ 58.1-320, 58.1-322, 58.1-400, 58.1-603, 58.1-604, 58.1-604.1, 58.1-614, 58.1-615, 58.1-627, 58.1-628, and 58.1-639 of the Code of Virginia, relating to taxation of individuals and corporations.*

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Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-320, 58.1-322, 58.1-400, 58.1-603, 58.1-604, 58.1-604.1, 58.1-614, 58.1-615, 58.1-627, 58.1-628, and 58.1-639 of the Code of Virginia are amended and reenacted as follows:**

§ 58.1-320. Imposition of tax.

A tax is hereby annually imposed on the Virginia taxable income for each taxable year of every individual as follows: *at a rate of five and one-half percent.*

Two percent on income not exceeding \$3,000;

Three percent on income in excess of \$3,000, but not in excess of \$5,000;

Five percent on income in excess of \$5,000, but not in excess of \$12,000 for taxable years beginning before January 1, 1987;

Five percent on income in excess of \$5,000 but not in excess of \$14,000 for taxable years beginning January 1, 1987, through December 31, 1987;

Five percent on income in excess of \$5,000 but not in excess of \$15,000 for taxable years beginning January 1, 1988, through December 31, 1988;

Five percent on income in excess of \$5,000 but not in excess of \$16,000 for taxable years beginning January 1, 1989, through December 31, 1989;

Five percent on income in excess of \$5,000 but not in excess of \$17,000 for taxable years beginning January 1, 1990;

Five and three-quarters percent on income in excess of \$12,000 for taxable years beginning before January 1, 1987;

Five and three-quarters percent on income in excess of \$14,000 for taxable years beginning January 1, 1987, through December 31, 1987;

Five and three-quarters percent on income in excess of \$15,000 for taxable years beginning January 1, 1988, through December 31, 1988;

Five and three-quarters percent on income in excess of \$16,000 for taxable years beginning January 1, 1989, through December 31, 1989; and

Five and three-quarters percent on income in excess of \$17,000 for taxable years beginning on and after January 1, 1990.

§ 58.1-322. Virginia taxable income of residents.

A. The Virginia taxable income of a resident individual means his federal adjusted gross income for the taxable year, which excludes combat pay for certain members of the Armed Forces of the United States as provided in § 112 of the Internal Revenue Code, as amended, and with the modifications specified in this section.

B. To the extent excluded from federal adjusted gross income, there shall be added:

1. Interest, less related expenses to the extent not deducted in determining federal income, on obligations of any state other than Virginia, or of a political subdivision of any such other state unless created by compact or agreement to which Virginia is a party;

2. Interest or dividends, less related expenses to the extent not deducted in determining federal taxable income, on obligations or securities of any authority, commission or instrumentality of the United States, which the laws of the United States exempt from federal income tax but not from state income taxes;

3. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

4. The amount of a lump sum distribution from a qualified retirement plan, less the minimum distribution allowance and any amount excludable for federal income tax purposes that is excluded from federal adjusted gross income solely by virtue of an individual's election to use the averaging provisions under § 402 of the Internal Revenue Code; and

5. through 8. [Repealed.]

9. The amount required to be included in income for the purpose of computing the partial tax on an

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59 accumulation distribution pursuant to § 667 of the Internal Revenue Code.

60 C. To the extent included in federal adjusted gross income, there shall be subtracted:

61 1. Income derived from obligations, or on the sale or exchange of obligations, of the United States  
62 and on obligations or securities of any authority, commission or instrumentality of the United States to  
63 the extent exempt from state income taxes under the laws of the United States including, but not limited  
64 to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes,  
65 interest on equipment purchase contracts, or interest on other normal business transactions.

66 2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth  
67 or of any political subdivision or instrumentality of this Commonwealth.

68 3. [Repealed.]

69 4. Benefits received under Title II of the Social Security Act and other benefits subject to federal  
70 income taxation solely pursuant to § 86 of the Internal Revenue Code.

71 4a. Through December 31, 2000, the same amount used in computing the federal credit allowed  
72 under § 22 of the Internal Revenue Code by a retiree under age 65 who qualified for such retirement on  
73 the basis of permanent and total disability and who is a qualified individual as defined in § 22 (b) (2) of  
74 the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of  
75 subsection D of this section may not also claim a subtraction under this subdivision.

76 4b. For taxable years beginning on or after January 1, 2001, up to \$20,000 of disability income, as  
77 defined in § 22 (c) (2) (B) (iii) of the Internal Revenue Code; however, any person who claims a  
78 deduction under subdivision 5 of subsection D of this section may not also claim a subtraction under  
79 this subdivision.

80 5. The amount of any refund or credit for overpayment of income taxes imposed by the  
81 Commonwealth or any other taxing jurisdiction.

82 6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not  
83 deducted for federal purposes on account of the provisions of § 280C (a) of the Internal Revenue Code.

84 7, 8. [Repealed.]

85 9. [Expired.]

86 10. Any amount included therein less than \$600 from a prize awarded by the State Lottery  
87 Department.

88 11. The wages or salaries received by any person for active and inactive service in the National  
89 Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar  
90 days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of  
91 O3 and below shall be entitled to the deductions specified herein.

92 12. Amounts received by an individual, not to exceed \$1,000 in any taxable year, as a reward for  
93 information provided to a law-enforcement official or agency, or to a nonprofit corporation created  
94 exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of  
95 perpetrators of crimes. This provision shall not apply to the following: an individual who is an employee  
96 of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which  
97 the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

98 13. [Repealed.]

99 14. (Expires for taxable years beginning on and after January 1, 2004) The amount of any qualified  
100 agricultural contribution as determined in § 58.1-322.2.

101 15, 16. [Repealed.]

102 17. For taxable years beginning on and after January 1, 1995, the amount of "qualified research  
103 expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not  
104 deducted, on account of the provisions of § 280C (c) of the Internal Revenue Code and which shall be  
105 available to partners, shareholders of S corporations, and members of limited liability companies to the  
106 extent and in the same manner as other deductions may pass through to such partners, shareholders, and  
107 members.

108 18. For taxable years beginning on or after January 1, 1995, all military pay and allowances, not  
109 otherwise subtracted under this subsection, earned for any month during any part of which such member  
110 performed military service in any part of the former Yugoslavia, including the air space above such  
111 location or any waters subject to related naval operations, in support of Operation JOINT ENDEAVOR  
112 as part of the NATO Peace Keeping Force. Such subtraction shall be available until the taxpayer  
113 completes such service.

114 19. For taxable years beginning on and after January 1, 1996, any income received during the taxable  
115 year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the  
116 Internal Revenue Code, an individual retirement account or annuity established under § 408 of the  
117 Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code,  
118 or any federal government retirement program, the contributions to which were deductible from the  
119 taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or  
120 program were subject to taxation under the income tax in another state.

20. For taxable years beginning on and after January 1, 1997, any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

21. For taxable years beginning on or after January 1, 1998, all military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area which is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

22. For taxable years beginning on or after January 1, 2000, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

23. Effective for all taxable years beginning on or after January 1, 2000, \$15,000 of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds \$30,000.

24. Effective for all taxable years beginning on and after January 1, 2000, the first \$15,000 of salary for each federal and state employee whose annual salary is \$15,000 or less.

25. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

26. For taxable years beginning on and after January 1, 2001, any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

27. Effective for all taxable years beginning on and after January 1, 1999, income received as a result of (i) the "Master Settlement Agreement," as defined in § 3.1-1106; (ii) the National Tobacco Grower Settlement Trust dated July 19, 1999; and (iii) the Tobacco Loss Assistance Program, pursuant to 7 C.F.R. Part 1464 (Subpart C, §§ 1464.201 through 1464.205), by (a) tobacco farmers; (b) any person holding a tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of 1938; or (c) any person having the right to grow tobacco pursuant to such a quota or allotment, but only to the extent that such income has not been subtracted pursuant to subdivision C 18 of § 58.1-402.

28. For taxable years beginning on and after January 1, 2000, items of income attributable to, derived from or in any way related to (i) assets stolen from, hidden from or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, widow, widower, or child or stepchild of such victim.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the Nazi regime who had assets stolen from, hidden from or otherwise lost as a result of any act or omission in any way relating to (i) the Holocaust; (ii) World War II and its prelude and direct aftermath; (iii) transactions with or actions of the Nazi regime; (iv) treatment of refugees fleeing Nazi persecution; or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II and its prelude and aftermath. A victim or target of Nazi persecution shall also include any individual forced into labor against his will, under the threat of death, during World War II and its prelude and direct aftermath. As used in this subdivision, "Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

29. For taxable years beginning on and after January 1, 2002, any gain recognized as a result of the Peanut Quota Buyout Program of the Farm Security and Rural Investment Act of 2002 pursuant to 7 C.F.R. Part 1412 (Subpart H, §§ 1412.801 through 1412.811) as follows:

a. If the payment is received in installment payments pursuant to 7 C.F.R. § 1412.807(a)(2), then the entire gain recognized may be subtracted.

b. If the payment is received in a single payment pursuant to 7 C.F.R. § 1412.807(a)(3), then 20

percent of the recognized gain may be subtracted. The taxpayer may then deduct an equal amount in each of the four succeeding taxable years.

30. Effective for all taxable years beginning on and after January 1, 2002, but before January 1, 2005, the indemnification payments received by contract poultry growers and table egg producers from the U.S. Department of Agriculture as a result of the depopulation of poultry flocks because of low pathogenic avian influenza in 2002. In no event shall indemnification payments made to owners of poultry who contract with poultry growers qualify for this subtraction.

31. Effective for all taxable years beginning on or after January 1, 2001, the military death gratuity payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line of duty, pursuant to Chapter 75 of Title 10 of the United States Code; however, the subtraction amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross income in accordance with § 134 of the Internal Revenue Code.

D. In computing Virginia taxable income there shall be deducted from federal adjusted gross income:

1. a. The amount allowable for itemized deductions for federal income tax purposes where the taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted on such federal return and increased by an amount which, when added to the amount deducted under § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for such purposes at a rate of 18 cents per mile; or

b. Two thousand dollars for taxable years beginning January 1, 1987, through December 31, 1987; \$2,700 for taxable years beginning January 1, 1988, through December 31, 1988; and ~~\$5,000~~\$24,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return); and ~~\$3,000~~\$12,000 for single individuals for taxable years beginning on and after January 1, 1989; provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax return. For purposes of this section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year may compute the deduction only with respect to earned income.

2. a. A deduction in the amount of \$700 for taxable years beginning January 1, 1987, through December 31, 1987, and \$800 for taxable years beginning on and after January 1, 1988, for each personal exemption allowable to the taxpayer for federal income tax purposes. For taxable years beginning on and after January 1, 1987, each blind or aged taxpayer as defined under § 63 (f) of the Internal Revenue Code shall be entitled to an additional personal exemption.

b. An additional deduction of \$200 for taxable years beginning January 1, 1987, through December 31, 1987, for each blind or aged taxpayer as defined under § 63 (f) of the Internal Revenue Code. The additional deduction for blind or aged taxpayers allowed under this subdivision and the additional personal exemption allowed to blind or aged taxpayers under subdivision 2 a of this subsection shall be allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income tax purposes.

3. A deduction equal to the amount of employment-related expenses upon which the federal credit is based under § 21 of the Internal Revenue Code for expenses for household and dependent care services necessary for gainful employment.

4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under permanent foster care placement as defined in § 63.2-908, provided the taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.

5. Effective for all taxable years beginning on or after January 1, 1996, a deduction in the amount of \$12,000 for taxpayers age 65 or older, or \$6,000 for taxpayers age 62 through 64.

6. For taxable years beginning on and after January 1, 1997, the amount an individual pays as a fee for an initial screening to become a possible bone marrow donor, if (i) the individual is not reimbursed for such fee or (ii) the individual has not claimed a deduction for the payment of such fee on his federal income tax return.

7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed during the taxable year for a prepaid tuition contract or savings trust account entered into with the Virginia College Savings Plan, pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Except as provided in subdivision 7 c, the amount deducted on any individual income tax return in any taxable year shall be limited to \$2,000 per prepaid tuition contract or savings trust account. No deduction shall be allowed pursuant to this section if such payments or contributions are deducted on the purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a savings trust account exceeds \$2,000, the remainder may be carried forward and subtracted in future taxable years until the purchase price or savings trust contribution has been fully deducted; however, except as provided in subdivision 7 c, in no event shall the amount deducted in any taxable year exceed \$2,000 per contract or savings trust account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) to pay qualified higher education

expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision, the term "purchaser" or "contributor" means the person shown as such on the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or savings trust account, including, but not limited to, carryover and recapture of deductions.

b. The amount paid for a prepaid tuition contract during taxable years beginning on or after January 1, 1996, but before January 1, 1998, shall be deducted in taxable years beginning on or after January 1, 1998, and shall be subject to the limitations set out in subdivision 7 a.

c. A purchaser of a prepaid tuition contract or contributor to a savings trust account who has attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$2,000 per prepaid tuition contract or savings trust account in any taxable year. Such taxpayer shall be allowed a deduction for the full amount paid for the contract or contributed to a savings trust account, less any amounts previously deducted. If a prepaid tuition contract was purchased by such taxpayer during taxable years beginning on or after January 1, 1996, but before January 1, 1998, such taxpayer may take the deduction for the full amount paid during such years, less any amounts previously deducted with respect to such payments, in taxable year 1999 or by filing an amended return for taxable year 1998.

8. For taxable years beginning on and after January 1, 2000, the total amount an individual actually contributed in funds to the Virginia Public School Construction Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, provided the individual has not claimed a deduction for such amount on his federal income tax return.

9. For taxable years beginning on and after January 1, 1999, an amount equal to 20 percent of the tuition costs incurred by an individual employed as a primary or secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend continuing teacher education courses that are required as a condition of employment; however, the deduction provided by this subsection shall be available only if (i) the individual is not reimbursed for such tuition costs and (ii) the individual has not claimed a deduction for the payment of such tuition costs on his federal income tax return.

10. For taxable years beginning on and after January 1, 2000, the amount an individual pays annually in premiums for long-term health care insurance, provided the individual has not claimed a deduction for federal income tax purposes.

E. There shall be added to or subtracted from federal adjusted gross income, as the case may be, the individual's share, as beneficiary of an estate or trust, of the Virginia fiduciary adjustment determined under § 58.1-361.

F. There shall be added or subtracted, as the case may be, the amounts provided in § 58.1-315 as transitional modifications.

§ 58.1-400. Imposition of tax.

A tax at the rate of ~~six~~ *five and one-half* percent is hereby annually imposed on the Virginia taxable income for each taxable year of every corporation organized under the laws of the Commonwealth and every foreign corporation having income from Virginia sources.

§ 58.1-603. Imposition of sales tax.

There is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by law, a license or privilege tax upon every person who engages in the business of selling at retail or distributing tangible personal property in this Commonwealth, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this Commonwealth any item or article of tangible personal property as defined in this chapter, or who leases or rents such property within this Commonwealth, in the amount of ~~three~~ *four* and one-half percent:

1. Of the gross sales price of each item or article of tangible personal property when sold at retail or distributed in this Commonwealth.

2. Of the gross proceeds derived from the lease or rental of tangible personal property, where the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to such business.

3. Of the cost price of each item or article of tangible personal property stored in this Commonwealth for use or consumption in this Commonwealth.

4. Of the gross proceeds derived from the sale or charges for rooms, lodgings or accommodations furnished to transients as set out in the definition of "retail sale" in § 58.1-602.

5. Of the gross sales of any services which are expressly stated as taxable within this chapter.

§ 58.1-604. Imposition of use tax.

There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount

305 of ~~three~~ *four* and one-half percent:

306 1. Of the cost price of each item or article of tangible personal property used or consumed in this  
307 Commonwealth. Tangible personal property which has been acquired for use outside this Commonwealth  
308 and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost  
309 price if such property is brought within this Commonwealth for use within six months of its acquisition;  
310 but if so brought within this Commonwealth six months or more after its acquisition, such property shall  
311 be taxed on the basis of the current market value (but not in excess of its cost price) of such property at  
312 the time of its first use within this Commonwealth. Such tax shall be based on such proportion of the  
313 cost price or current market value as the duration of time of use within this Commonwealth bears to the  
314 total useful life of such property (but it shall be presumed in all cases that such property will remain  
315 within this Commonwealth for the remainder of its useful life unless convincing evidence is provided to  
316 the contrary).

317 2. Of the cost price of each item or article of tangible personal property stored outside this  
318 Commonwealth for use or consumption in this Commonwealth.

319 3. A transaction taxed under § 58.1-603 shall not also be taxed under this section, nor shall the same  
320 transaction be taxed more than once under either section.

321 4. The use tax shall not apply with respect to the use of any article of tangible personal property  
322 brought into this Commonwealth by a nonresident individual, visiting in Virginia, for his personal use,  
323 while within this Commonwealth.

324 5. The use tax shall not apply to out-of-state mail order catalog purchases totaling \$100 or less  
325 during any calendar year.

326 § 58.1-604.1. Use tax on motor vehicles, machinery, tools and equipment brought into Virginia for  
327 use in performing contracts.

328 In addition to the use tax levied pursuant to § 58.1-604 and notwithstanding the provisions of  
329 § 58.1-611, a use tax is levied upon the storage or use of all motor vehicles, machines, machinery, tools  
330 or other equipment brought, imported or caused to be brought into this Commonwealth for use in  
331 constructing, building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or  
332 water system, drainage or dredging system, railway system, reservoir or dam, hydraulic or power plant,  
333 transmission line, tower, dock, wharf, excavation, grading, or other improvement or structure, or any  
334 part thereof. The rate of tax is ~~three~~ *four* and one-half percent on all tangible personal property except  
335 motor vehicles, which shall be taxed at the rate of three percent; aircraft, which shall be taxed at the  
336 rate of two percent; and watercraft, which shall be taxed at the rate of two percent with a maximum tax  
337 of \$1,000.

338 For purposes of this section the words "motor vehicle" means any vehicle which is self-propelled and  
339 designed primarily for use upon the highways, any vehicle which is propelled by electric power obtained  
340 from trolley wires but not operated upon rails, and any vehicle designed to run upon the highways  
341 which is pulled by a self-propelled vehicle, but shall not include any implement of husbandry, farm  
342 tractor, road construction or maintenance machinery or equipment, special mobile equipment or any  
343 vehicle designed primarily for use in work off the highway.

344 The tax shall be computed on the basis of such proportion of the original purchase price of such  
345 property as the duration of time of use in this Commonwealth bears to the total useful life thereof. For  
346 purposes of this section, the word "use" means use, storage, consumption and "stand-by" time  
347 occasioned by weather conditions, controversies or other causes. The tax shall be computed upon the  
348 basis of the relative time each item of equipment is in this Commonwealth rather than upon the basis of  
349 actual use. In the absence of satisfactory evidence as to the period of use intended in this  
350 Commonwealth, it will be presumed that such property will remain in this Commonwealth for the  
351 remainder of its useful life, which shall be determined in accordance with the experiences and practices  
352 of the building and construction trades.

353 A transaction taxed under §§ 58.1-604, 58.1-605, 58.1-1402, 58.1-1502, or § 58.1-2402 shall not also  
354 be taxed under this section, nor shall the same transaction be taxed more than once under any section.

355 § 58.1-614. Vending machine sales.

356 A. Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever a dealer makes sales of  
357 tangible personal property through vending machines, or in any other manner making collection of the  
358 tax impractical, as determined by the Tax Commissioner, such dealer shall be required to report his  
359 wholesale purchases for sale at retail from vending machines and shall be required to remit an amount  
360 based on ~~four~~ *five* and one-half percent of such wholesale purchases.

361 B. Notwithstanding the provisions of §§ 58.1-605 and 58.1-606, dealers making sales of tangible  
362 personal property through vending machines shall report and remit the one percent local sales and use  
363 tax computed as provided in subsection A of this section.

364 C. The provisions of subsections A and B of this section shall not be applicable to vending machine  
365 operators all of whose machines are under contract to nonprofit organizations. Such operators shall  
366 report only the gross receipts from machines selling items for more than ~~ten~~ *ten* cents and shall be

required to remit an amount based on a percentage of their remaining gross sales established by the Tax Commissioner to take into account the inclusion of sales tax.

D. Notwithstanding any other provisions in this section or § 58.1-628, when the Tax Commissioner determines that it is impractical to collect the tax in the manner provided by those sections, such dealer shall be required to remit an amount based on a percentage of gross receipts which takes into account the inclusion of the sales tax.

E. The provisions of this section shall not be applicable to any dealer who fails to maintain records satisfactory to the Tax Commissioner. A dealer making sales of tangible personal property through vending machines shall obtain a certificate of registration under § 58.1-613 in relevant form for each county or city in which he has machines.

§ 58.1-615. Returns by dealers.

A. Every dealer required to collect or pay the sales or use tax shall, on or before the twentieth day of the month following the month in which the tax shall become effective, transmit to the Tax Commissioner a return showing the gross sales, gross proceeds, or cost price, as the case may be, arising from all transactions taxable under this chapter during the preceding calendar month, and thereafter a like return shall be prepared and transmitted to the Tax Commissioner by every dealer on or before the twentieth day of each month, for the preceding calendar month. In the case of dealers regularly keeping books and accounts on the basis of an annual period which varies ~~fifty-two~~ <sup>fifty-three</sup> to ~~52~~ <sup>53</sup> weeks, the Tax Commissioner may make rules and regulations for reporting consistent with such accounting period.

Notwithstanding any other provision of this chapter, a dealer may be required by the Tax Commissioner to file sales or use tax returns on an accounting period less frequent than monthly when, in the opinion of the Tax Commissioner, the administration of the taxes imposed by this chapter would be enhanced. If a dealer is required to file other than monthly, each such return shall be due on or before the twentieth day of the month following the close of the period. Each such return shall contain all information required for monthly returns.

A sales or use tax return shall be filed by each registered dealer even though the dealer is not liable to remit to the Tax Commissioner any tax for the period covered by the return.

B. 1. In addition to the amounts required under the provisions of this section and § 58.1-616, any dealer as defined by § 58.1-612 or direct payment permit holder pursuant to § 58.1-624, with taxable sales and purchases of \$1,300,000 or greater for the twelve-month period beginning July 1, and ending June 30 of the immediately preceding calendar year, shall be required to make a payment equal to 90 percent of the sales and use tax liability for the previous June. Such tax payments shall be made on or before the 30th day of June, if payment is made by electronic funds transfer, as defined in § 58.1-202.1. If payment is made by other than electronic funds transfer, such payment shall be made on or before the 25th day of June. For purposes of this provision, taxable sales or purchases shall be computed without regard to the number of certificates of registration held by the dealer. Every dealer or direct payment permit holder shall be entitled to a credit for the payment under this subsection on the return for June of the current year due July 20. The provisions of this subsection shall not apply to persons who are required to file only a Form ST-7, Consumer User Tax Return.

2. In lieu of the penalties provided in § 58.1-635, except with respect to fraudulent returns, failure to make a timely payment or full payment of the sales and use tax liability as provided in this subsection shall subject the dealer or direct payment permit holder to a penalty of six percent of the amount of tax underpayment that should have been properly paid to the Tax Commissioner. Interest will accrue as provided in § 58.1-15. The payment required by this subsection shall become delinquent on the first day following the due date set forth in this subsection if not paid.

§ 58.1-627. Bracket system for tax at rate of five and one-half percent.

The following brackets of prices shall be used for the collection of the tax imposed by this chapter:

\$0.00	to	\$0.14	no tax
.15	to	.42	1&raquo; tax
.43	to	.71	2&raquo; tax
.72	to	.99	3&raquo; tax
1.00	to	1.28	4&raquo; tax
1.29	to	1.57	5&raquo; tax
1.58	to	1.85	6&raquo; tax
1.86	to	2.14	7&raquo; tax
2.15	to	2.42	8&raquo; tax
2.43	to	2.71	9&raquo; tax
2.72	to	2.99	10&raquo; tax
3.00	to	3.28	11&raquo; tax

427	3.29	to	3.57	12&raquo; tax
428	3.58	to	3.85	13&raquo; tax
429	3.86	to	4.14	14&raquo; tax
430	4.15	to	4.42	15&raquo; tax
431	4.43	to	4.71	16&raquo; tax
432	4.72	to	5.00	17&raquo; tax

433  
434 *The Tax Commissioner shall determine the brackets of prices on amounts from \$0.00 to \$5 to be*  
435 *used for the collection of the tax imposed by this chapter and shall publish such brackets in regulations.*

436 On transactions ~~over five dollars~~ greater than \$5, the tax shall be computed at ~~three~~ four and  
437 one-half percent, one-half cent or more being treated as one cent. If a dealer can show to the satisfaction  
438 of the Tax Commissioner that more than ~~eighty-five~~85 percent of the total dollar volume of his gross  
439 taxable sales during the taxable month was from individual sales at prices of ~~ten~~10 cents or less each,  
440 and that he was unable to adjust his prices in such manner as to prevent the economic incidence of the  
441 sales tax from falling on him, the Tax Commissioner shall determine the proper tax liability of the  
442 dealer based on that portion of the dealer's gross taxable sales which was from sales at prices of  
443 ~~eleven~~11 cents or more.

444 § 58.1-628. Bracket system for combined state and local tax.

445 The following brackets of prices shall be used for the collection of the combined state and local tax:

446	\$0.00	to	\$0.11	no tax
447	.12	to	.33	1&raquo; tax
448	.34	to	.55	2&raquo; tax
449	.56	to	.77	3&raquo; tax
450	.78	to	.99	4&raquo; tax
451	1.00	to	1.22	5&raquo; tax
452	1.23	to	1.44	6&raquo; tax
453	1.45	to	1.66	7&raquo; tax
454	1.67	to	1.88	8&raquo; tax
455	1.89	to	2.11	9&raquo; tax
456	2.12	to	2.33	10&raquo; tax
457	2.34	to	2.55	11&raquo; tax
458	2.56	to	2.77	12&raquo; tax
459	2.78	to	2.99	13&raquo; tax
460	3.00	to	3.22	14&raquo; tax
461	3.23	to	3.44	15&raquo; tax
462	3.45	to	3.66	16&raquo; tax
463	3.67	to	3.88	17&raquo; tax
464	3.89	to	4.11	18&raquo; tax
465	4.12	to	4.33	19&raquo; tax
466	4.34	to	4.55	20&raquo; tax
467	4.56	to	4.77	21&raquo; tax
468	4.78	to	5.00	22&raquo; tax

469  
470 *The Tax Commissioner shall determine the brackets of prices on amounts from \$0.00 to \$5 to be*  
471 *used for the collection of the tax imposed by this chapter and shall publish such brackets in regulations.*

472 On transactions ~~over five dollars~~ greater than \$5, the tax shall be computed at ~~four~~ five and one-half  
473 percent, one half cent or more being treated as one cent. The foregoing bracket system shall not relieve  
474 the dealer from the duty and liability to remit an amount equal to ~~four~~ five and one-half percent of his  
475 gross taxable sales as provided in this chapter. If the dealer, however, can show to the satisfaction of the  
476 Tax Commissioner that more than ~~eighty-five~~85 percent of the total dollar volume of his gross taxable  
477 sales during the taxable month was from individual sales at prices of ~~ten~~10 cents or less each and that  
478 he was unable to adjust his prices in such manner as to prevent the economic incidence of the sales tax  
479 from falling on him, the Tax Commissioner shall determine the proper tax liability of the dealer based  
480 on that portion of the dealer's gross taxable sales which was from sales at prices of ~~eleven~~11 cents or  
481 more.

482 § 58.1-639. Transitional provisions.

483 A. To the extent of any increase in the state sales and use tax rate enacted by the ~~1986 Special~~ 2004  
484 Session and reenacted by the 2005 Session of the Virginia General Assembly, the Tax Commissioner,  
485 upon application of the purchaser in accordance with regulations promulgated by the Commissioner,



shall have the authority to refund state sales or use taxes paid on purchases of tangible personal property made pursuant to bona fide real estate construction contracts, contracts for the sale of tangible personal property, and leases, provided that the real estate construction contract, contract for the sale of tangible personal property or lease is entered into prior to the date of enactment of the increase of the state sales and use tax rate; and further provided that the date of delivery of the tangible personal property is on or before March 30, ~~1987~~2006. The term "bona fide contract," when used in this section in relation to real estate construction contracts, shall include but not be limited to those contracts which are entered into prior to the enactment of the increase in the state sales and use tax rate, provided that such contracts include plans and specifications.

B. Notwithstanding the foregoing March 30, ~~1987~~2006, delivery date requirement, with respect to bona fide real estate construction contracts which contain a specific and stated date of completion, the date of delivery of such tangible personal property shall be on or before the completion date of the applicable project.

C. Applications for refunds pursuant to this section shall be made in accordance with the provisions of § 58.1-1823. Interest computed in accordance with § 58.1-1833 shall be added to the tax refunded pursuant to this section.

**2. That the provisions of this act shall be effective for taxable years beginning on or after January 1, 2006.**

**3. That the provisions of this act shall not become effective unless reenacted by the 2005 Session of the General Assembly.**