

043094316

## HOUSE BILL NO. 5012

Offered April 5, 2004

A *BILL to amend and reenact §§ 4.1-234, 46.2-694, 46.2-694.1, 46.2-697, 46.2-698, 46.2-700, 46.2-730, 46.2-1167, 58.1-302, 58.1-320, 58.1-324, 58.1-341, 58.1-391, 58.1-392, 58.1-402, 58.1-441, 58.1-520, 58.1-605, 58.1-606, 58.1-609.3, 58.1-801, 58.1-803, 58.1-807, 58.1-808, 58.1-815, 58.1-816, 58.1-901, 58.1-1001, 58.1-2402, and 58.1-2425 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 58.1-390.1, 58.1-390.2, and 58.1-393.1, by adding in Article 9 of Chapter 3 of Title 58.1 sections numbered 58.1-394.1, 58.1-394.2, and 58.1-395, relating to numerous state and local taxes.*

Patron—Hamilton

Referred to Committee on Finance

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

**1. That §§ 4.1-234, 46.2-694, 46.1-694.1, 46.2-697, 46.2-698, 46.2-700, 46.2-730, 46.2-1167, 58.1-302, 58.1-320, 58.1-324, 58.1-341, 58.1-391, 58.1-392, 58.1-402, 58.1-441, 58.1-520, 58.1-605, 58.1-606, 58.1-609.3, 58.1-801, 58.1-803, 58.1-807, 58.1-808, 58.1-815, 58.1-816, 58.1-901, 58.1-1001, 58.1-2402, and 58.1-2425 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 58.1-390.1, 58.1-390.2, and 58.1-393.1, and by adding in Article 9 of Chapter 3 of Title 58.1 sections numbered 58.1-394.1, 58.1-394.2, and 58.1-395 as follows:**

§ 4.1-234. Tax on wine and other alcoholic beverages; exceptions.

A. In addition to the taxes imposed pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, a tax of forty cents is levied on each liter of wine sold in the Commonwealth. Additionally, on vermouth and on farm winery wines sold to consumers by the Board the state tax shall be four percent of the price charged.

B. There is levied on other alcoholic beverages sold by the Board a tax of ~~twenty~~ 23 percent of the price charged. This subsection shall also apply to all alcoholic beverages purchased from the Board by any mixed beverage licensee.

C. The provisions of this section shall not apply to (i) beer, (ii) wine coolers, (iii) sales of wine by manufacturers to wholesale wine licensees for resale to retail licensees, (iv) sales, other than by or through government stores, of alcoholic beverages for manufacturing and industrial purposes, or either, (v) sales, other than by or through government stores, of alcohol for hospital and laboratory purposes, or either, (vi) alcoholic beverages shipped from the Commonwealth to points outside the Commonwealth for resale outside the Commonwealth and (vii) sales to any instrumentality of the federal government.

§ 46.2-694. Fees for vehicles designed and used for transportation of passengers; weights used for computing fees; burden of proof.

A. The annual registration fees for motor vehicles, trailers, and semitrailers designed and used for the transportation of passengers on the highways in the Commonwealth are:

1. ~~Twenty-three~~ *Twenty-eight* dollars for each private passenger car or motor home if the passenger car or motor home weighs 4,000 pounds or less, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

2. ~~Twenty-eight~~ *Thirty-three* dollars for each passenger car or motor home which weighs more than 4,000 pounds, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

3. Thirty cents per 100 pounds or major fraction thereof for a private motor vehicle other than a motorcycle with a normal seating capacity of more than ~~ten~~ 10 adults including the driver if the private motor vehicle is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire or is not operated under a lease without a chauffeur. In no case shall the fee be less than ~~twenty-three dollars~~ \$28 if the vehicle weighs 4,000 pounds or less or ~~twenty-eight dollars~~ \$33 if the vehicle weighs more than 4,000 pounds.

4. Thirty cents per 100 pounds or major fraction thereof for a school bus. In no case shall the fee be less than ~~twenty-three dollars~~ \$28 if the vehicle weighs 4,000 pounds or less or ~~twenty-eight~~ \$33 dollars if the vehicle weighs more than 4,000 pounds.

5. ~~Twenty-three~~ *Twenty-eight* dollars for each trailer or semitrailer designed for use as living quarters for human beings.

6. ~~Thirteen~~ *Eighteen* dollars plus ~~thirty~~ 30 cents per 100 pounds or major fraction thereof for each

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59 motor vehicle, trailer, or semitrailer used as a common carrier of passengers, operating either intrastate  
60 or interstate. Interstate common carriers of interstate passengers may elect to be licensed and pay the  
61 fees prescribed in subdivision 7 of this subsection on submission to the Commissioner of a declaration  
62 of operations and equipment as he may prescribe. An additional ~~five dollars~~\$5 shall be charged if the  
63 motor vehicle weighs more than 4,000 pounds.

64 7. ~~Thirteen~~ *Eighteen* dollars plus ~~seventy~~ 70 cents per 100 pounds or major fraction thereof for each  
65 motor vehicle, trailer, or semitrailer used as a common carrier of interstate passengers if election is made  
66 to be licensed under this subsection. An additional ~~five dollars~~\$5 shall be charged if the motor vehicle  
67 weighs more than 4,000 pounds. In lieu of the foregoing fee of ~~seventy~~ 70 cents per 100 pounds, a  
68 motor carrier of passengers, operating two or more vehicles both within and outside the Commonwealth  
69 and registered for insurance purposes with the Surface Transportation Board of the United States  
70 Department of Transportation, Federal Highway Administration, may apply to the Commissioner for  
71 prorated registration. Upon the filing of such application, in such form as the Commissioner may  
72 prescribe, the Commissioner shall apportion the registration fees provided in this subsection so that the  
73 total registration fees to be paid for such vehicles of such carrier shall be that proportion of the total  
74 fees, if there were no apportionment, that the total number of miles traveled by such vehicles of such  
75 carrier within the Commonwealth bears to the total number of miles traveled by such vehicles within  
76 and outside the Commonwealth. Such total mileage in each instance is the estimated total mileage to be  
77 traveled by such vehicles during the license year for which such fees are paid, subject to the adjustment  
78 in accordance with an audit to be made by representatives of the Commissioner at the end of such  
79 license year, the expense of such audit to be borne by the carrier being audited. Each vehicle passing  
80 into or through Virginia shall be registered and licensed in Virginia and the annual registration fee to be  
81 paid for each such vehicle shall not be less than ~~thirty-three dollars~~ \$38. For the purpose of determining  
82 such apportioned registration fees, only those motor vehicles, trailers, or semitrailers operated both  
83 within and outside the Commonwealth shall be subject to inclusion in determining the apportionment  
84 provided for herein.

85 8. ~~Thirteen~~ *Eighteen* dollars plus ~~eighty~~ 80 cents per 100 pounds or major fraction thereof for each  
86 motor vehicle, trailer or semitrailer kept or used for rent or for hire or operated under a lease without a  
87 chauffeur for the transportation of passengers. An additional fee of ~~five dollars~~\$5 shall be charged if the  
88 vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common  
89 carriers.

90 9. ~~Twenty-three~~ *Twenty-eight* dollars for a taxicab or other vehicle ~~which~~ *that* is kept for rent or hire  
91 operated with a chauffeur for the transportation of passengers, and which operates or should operate  
92 under permits issued by the Department as required by law. An additional fee of ~~five dollars~~\$5 shall be  
93 charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used  
94 as common carriers.

95 10. ~~Eighteen~~ *Twenty-three* dollars for a motorcycle, with or without a sidecar. To this fee shall be  
96 added a surcharge of ~~three dollars~~\$3, which shall be distributed as provided in § 46.2-1191.

97 11. ~~Twenty-three~~ *Twenty-eight* dollars for a bus used exclusively for transportation to and from  
98 Sunday school or church, for the purpose of divine worship. If the empty weight of the vehicle exceeds  
99 4,000 pounds, the fee shall be ~~twenty-eight dollars~~ \$33.

100 12. ~~Thirteen~~ *Eighteen* dollars plus ~~seventy~~ 70 cents per 100 pounds or major fraction thereof for  
101 other passenger-carrying vehicles.

102 13. An additional fee of ~~four dollars~~\$4 per year shall be charged and collected at the time of  
103 registration of each pickup or panel truck and each motor vehicle under subdivisions 1 through 12 of  
104 this subsection. All funds collected pursuant to this subdivision shall be paid into the state treasury and  
105 shall be set aside as a special fund to be used only for emergency medical service purposes. The  
106 moneys in the special fund shall be distributed as follows:

107 a. Two and one-half percent shall be distributed to the Virginia Association of Volunteer Rescue  
108 Squads;

109 b. Thirteen and one-half percent shall be distributed to the State Department of Health to support (i)  
110 emergency medical services training programs (excluding advanced life support classes), (ii) advanced  
111 life support training, and (iii) recruitment and retention programs (all funds for such support shall be  
112 used to recruit and retain volunteer emergency medical services personnel only, including public  
113 awareness campaigns, technical assistance programs, and similar activities). Any funds set aside for  
114 distribution under this provision and remaining undistributed at the end of any fiscal year shall revert to  
115 the Rescue Squad Assistance Fund;

116 c. Thirty-one and three-quarters percent shall be distributed to the Rescue Squad Assistance Fund;

117 d. Twenty-seven and one-quarter percent shall be available to the State Department of Health for use  
118 in emergency medical services; and

119 e. Twenty-five percent shall be returned by the Comptroller to the locality wherein such vehicle is  
120 registered, to provide funding for training of volunteer or salaried emergency medical service personnel

of licensed, nonprofit emergency medical services agencies and for the purchase of necessary equipment and supplies for use in such locality for licensed, nonprofit emergency medical and rescue services.

The Comptroller shall clearly designate on the warrant, check, or other means of transmitting these funds that such moneys are only to be used for purposes set forth in this subdivision. Such funds shall be in addition to any local appropriations and local governing bodies shall not use these funds to supplant local funds. Each local governing body shall report annually to the Board of Health on the use of the ~~twenty-five~~ 25 percent of the funds ~~which~~ that were returned to it. In any case in which the local governing body grants the funds to a regional emergency medical services council to be distributed to the licensed, nonprofit emergency medical and rescue services, the local governing body shall remain responsible for the proper use of the funds. If, at the end of any fiscal year, a report on the use of the ~~twenty-five~~ 25 percent of the funds for that year has not been received from a local governing body, any funds due to that local governing body for the next fiscal year shall be retained until such time as the report has been submitted to the Board.

B. All motor vehicles, trailers, and semitrailers registered as provided in subsection B of § 46.2-646 shall pay a registration fee equal to one-twelfth of all fees required by subsection A of this section or § 46.2-697 for such motor vehicle, trailer, or semitrailer, computed to the nearest cent, multiplied by the number of months in the registration period for such motor vehicles, trailers, and semitrailers.

C. The manufacturer's shipping weight or scale weight shall be used for computing all fees required by this section to be based upon the weight of the vehicle.

D. The applicant for registration bears the burden of proof that the vehicle for which registration is sought is entitled by weight, design, and use to be registered at the fee tendered by the applicant to the Commissioner or to his authorized agent.

§ 46.2-694.1. Fees for trailers and semitrailers not designed and used for transportation of passengers.

Unless otherwise specified in this title, the registration fees for trailers and semitrailers not designed and used for the transportation of passengers on the highways in the Commonwealth shall be as follows:

Registered Gross Weight	1-Year Fee	2-Year Fee	Permanent Fee
0-1,500 lbs	<del>\$8.00</del> 13.00	<del>\$16.00</del> 21.00	<del>\$50.00</del> 55.00
1,501-4,000 lbs	<del>\$18.50</del> 23.50	<del>\$37.00</del> 42.00	<del>\$50.00</del> 55.00
4,001 lbs & above	<del>\$23.50</del> 28.50	<del>\$47.00</del> 52.00	<del>\$50.00</del> 55.00

From the foregoing registration fees, the following amounts, regardless of weight category, shall be paid by the Department into the state treasury and set aside for the payment of the administrative costs of the safety inspection program provided for in Article 21 (§ 46.2-1157 et seq.) of Chapter 10 of this title: (i) from each one-year registration fee, one dollar and fifty cents; (ii) from each two-year registration fee, three dollars; and (iii) from each permanent registration fee, four dollars.

§ 46.2-697. Fees for vehicles not designed or used for transportation of passengers.

A. Except as otherwise provided in this section, the fee for registration of all motor vehicles not designed and used for the transportation of passengers shall be ~~thirteen dollars~~ \$18 plus an amount determined by the gross weight of the vehicle or combination of vehicles of which it is a part, when loaded to the maximum capacity for which it is registered and licensed, according to the schedule of fees set forth in this section. For each 1,000 pounds of gross weight, or major fraction thereof, for which any such vehicle is registered, there shall be paid to the Commissioner the fee indicated in the following schedule immediately opposite the weight group and under the classification established by the provisions of subsection B of § 46.2-711 into which such vehicle, or any combination of vehicles of which it is a part, falls when loaded to the maximum capacity for which it is registered and licensed. The fee for a pickup or panel truck shall be ~~twenty-three dollars~~ \$28 if its gross weight is 4,000 pounds or less, and ~~twenty-eight dollars~~ \$33 if its gross weight is 4,001 pounds through 6,500 pounds. The fee shall be ~~twenty-nine~~ \$34 dollars for any motor vehicle with a gross weight of 6,501 pounds through 10,000 pounds.

#### Fee Per Thousand Pounds of Gross Weight

Gross Weight Gross (pounds)	Private Carriers	For Rent or For Hire Carriers
10,001 - 11,000	\$2.60	\$4.75
11,001 - 12,000	2.80	4.90
12,001 - 13,000	3.00	5.15
13,001 - 14,000	3.20	5.40
14,001 - 15,000	3.40	5.65
15,001 - 16,000	3.60	5.90
16,001 - 17,000	4.00	6.15
17,001 - 18,000	4.40	6.40
18,001 - 19,000	4.80	7.50

<b>182</b>	19,001 - 20,000	5.20	7.70
<b>183</b>	20,001 - 21,000	5.60	7.90
<b>184</b>	21,001 - 22,000	6.00	8.10
<b>185</b>	22,001 - 23,000	6.40	8.30
<b>186</b>	23,001 - 24,000	6.80	8.50
<b>187</b>	24,001 - 25,000	6.90	8.70
<b>188</b>	25,001 - 26,000	6.95	8.90
<b>189</b>	26,001 - 27,000	8.25	10.35
<b>190</b>	27,001 - 28,000	8.30	10.55
<b>191</b>	28,001 - 29,000	8.35	10.75
<b>192</b>	29,001 - 40,000	8.45	10.95
<b>193</b>	40,001 - 45,000	8.55	11.15
<b>194</b>	45,001 - 50,000	8.75	11.25
<b>195</b>	50,001 - 55,000	9.25	13.25
<b>196</b>	55,001 - 76,000	11.25	15.25
<b>197</b>	76,001 - 80,000	13.25	16.25

**198** For all such motor vehicles exceeding a gross weight of 6,500 pounds, an additional fee of five  
**199** dollars \$5 shall be imposed.

**200** B. In lieu of registering any motor vehicle referred to in this section for an entire licensing year, the  
**201** owner may elect to register the vehicle only for one or more quarters of a licensing year, and in such  
**202** case, the fee shall be ~~twenty-five~~ 25 percent of the annual fee plus ~~five dollars~~ \$5 for each quarter that  
**203** the vehicle is registered.

**204** C. When an owner elects to register and license a motor vehicle under subsection B of this section,  
**205** the provisions of §§ 46.2-646 and 46.2-688 shall not apply.

**206** D. Notwithstanding any other provision of law, no vehicle designed, equipped, and used to tow  
**207** disabled or inoperable motor vehicles shall be required to register in accordance with any gross weight  
**208** other than the gross weight of the towing vehicle itself, exclusive of any vehicle being towed.

**209** E. All registrations and licenses issued for less than a full year shall expire on the date shown on the  
**210** license and registration.

**211** § 46.2-698. Fees for farm vehicles.

**212** A. The fees for registration of farm motor vehicles having gross weights of 7,500 pounds or more,  
**213** when such vehicles are used exclusively for farm use as defined in this section, shall be one-half of the  
**214** fee per 1,000 pounds of gross weight for private carriers as calculated under the provisions of  
**215** § 46.2-697 and one-half of the fee for overload permits under § 46.2-1128, but the annual registration  
**216** fee to be paid for each farm vehicle shall not be less than ~~fifteen dollars~~ \$20.

**217** B. A farm motor vehicle is used exclusively for farm use:

**218** 1. When owned by a person who is engaged either as an owner, renter, or operator of a farm of a  
**219** size reasonably requiring the use of such vehicle or vehicles and when such vehicle is:

**220** a. Used in the transportation of agricultural commodities, poultry, dairy products, or livestock of the  
**221** farm he is working to market, or to other points for sale or processing, or when used to transport  
**222** materials, tools, equipment, or supplies which are to be used or consumed on the farm he is working, or  
**223** when used for any other transportation incidental to the regular operation of such farm;

**224** b. Used in transporting forest products, including forest materials originating on a farm or incident to  
**225** the regular operation of a farm, to the farm he is working or transporting for any purpose forest  
**226** products which originate on the farm he is working; or

**227** c. Used in the transportation of farm produce, supplies, equipment, or materials to a farm not worked  
**228** by him, pursuant to a mutual cooperative agreement.

**229** 2. When the nonfarm use of such motor vehicle is limited to the personal use of the owner and his  
**230** immediate family in attending church or school, securing medical treatment or supplies, or securing  
**231** other household or family necessities.

**232** C. As used in this section, the term "farm" shall include one or more farms, orchards, or ranches, but  
**233** does not include a tree farm unless it is part of what otherwise is a farm.

**234** D. The first application for registration of a vehicle under this section shall be made on forms  
**235** provided by the Department and shall include:

**236** 1. The location and acreage of each farm on which the vehicle to be registered is to be used;

**237** 2. The type of agricultural commodities, poultry, dairy products or livestock produced on such farms  
**238** and the approximate amounts produced annually;

**239** 3. A statement, signed by the vehicle's owner, that the vehicle to be registered will only be used for  
**240** one or more of the purposes specified in subsection B of this section; and

**241** 4. Other information required by the Department;

**242** The above information is not required for the renewal of a vehicle's registration under this section.

**243** E. The Department shall issue appropriately designated license plates for those motor vehicles

registered under this section. The manner in which such license plates are designated shall be at the discretion of the Commissioner.

F. The owner of a farm vehicle shall inform the Commissioner within ~~thirty~~30 days or at the time of his next registration renewal, whichever comes first, when such vehicle is no longer used exclusively for farm use as defined in this section, and shall pay the appropriate registration fee for the vehicle based on its type of operation. It shall constitute a Class 2 misdemeanor to: (i) operate or to permit the operation of any farm motor vehicle for which the fee for registration and license plates is herein prescribed on any highway in the Commonwealth without first having paid the prescribed registration fee; or (ii) operate or permit the operation of any motor vehicle, registered under this section, for purposes other than as provided under subsection B of this section; or (iii) operate as a for-hire vehicle.

G. Nothing in this section shall affect the exemptions of agricultural and horticultural vehicles under §§ 46.2-664 through 46.2-670.

H. Notwithstanding other provisions of this section, vehicles licensed under this section may be used by volunteer rescue squad members and volunteer firefighters in responding to emergency calls, in reporting for regular duty, and in attending squad meetings and drills.

§ 46.2-700. Fees for vehicles for transporting well-drilling machinery and specialized mobile equipment.

A. The fee for registration of any motor vehicle, trailer, or semitrailer on which well-drilling machinery is attached and which is permanently used solely for transporting the machinery shall be ~~fifteen dollars~~ \$20.

B. The fee for the registration of specialized mobile equipment shall be ~~fifteen dollars~~ \$20. "Specialized mobile equipment" shall mean any self-propelled motor vehicle manufactured for a specific purpose, other than for the transportation of passengers or property, which is used on a job site and whose movement on any highway is incidental to the purpose for which it was designed and manufactured. The vehicle must be constructed to fall within all size and weight requirements as contained in §§ 46.2-1105, 46.2-1110, 46.2-1113 and Article 17 (§ 46.2-1122 et seq.) of Chapter 10 of this title and must be capable of maintaining sustained highway speeds of ~~forty~~40 miles per hour or more. Vehicles registered under this section shall be exempt from the requirements of § 46.2-1157.

C. Specialized mobile equipment which cannot maintain a sustained highway speed in excess of ~~forty~~40 miles per hour, and trailers or semitrailers which are designed and manufactured for a specific purpose and whose movement on the highway is incidental to the purpose for which it was manufactured and which are not designed or used to transport persons or property, shall not be required to be registered under this chapter.

§ 46.2-730. License plates for antique motor vehicles; fee.

A. On receipt of an application, the Commissioner shall issue appropriately designed license plates to owners of antique motor vehicles. These license plates shall be valid so long as title to the vehicle is vested in the applicant. The fee for the registration card and license plates of any of these vehicles shall be ~~ten dollars~~ \$15.

B. On receipt of an application, the Commissioner may authorize for use on antique motor vehicles Virginia license plates manufactured prior to 1976 and designed for use without decals, if such license plates are embossed with or are of the same year of issue as the model year of the antique motor vehicle on which they are to be displayed. Original metal year tabs issued in place of license plates for years 1943 and 1953 and used with license plates issued in 1942 and 1952, respectively, also may be authorized by the Commissioner for use on antique motor vehicles that are of the same model year as the year the metal tab was originally issued. These license plates and metal tabs shall remain valid so long as title to the vehicle is vested in the applicant. The fee for the registration card and permission to use the license plates and metal tabs on any of these vehicles shall be ~~ten dollars~~ \$15.

C. Notwithstanding the provisions of §§ 46.2-711 and 46.2-715, antique motor vehicles may display single license plates if the original manufacturer's design of the antique motor vehicles allows for the use of only single license plates or if the license plate was originally issued in one of the following years and is displayed in accordance with the provisions of subsection B of this section: 1906, 1907, 1908, 1909, 1945, or 1946.

D. Except as provided in subsection E of this section, motor vehicles registered with license plates issued under this section shall not be used for general transportation purposes, including, but not limited to, daily travel to and from the owner's place of employment, but shall only be used:

1. For participation in club activities, exhibits, tours, parades, and similar events; and
2. On the highways of the Commonwealth for the purpose of testing their operation, obtaining repairs or maintenance, transportation to and from events as described in subdivision 1 of this subsection, and for occasional pleasure driving not exceeding 250 miles from the residence of the owner.

E. Notwithstanding the foregoing provision of this section, antique motor vehicles displaying license plates issued pursuant to subsections B and C of this section may be used for general transportation

305 purposes if the following conditions are met:

306 1. The physical condition of the vehicle's license plate or plates has been inspected and approved by  
307 the Department;

308 2. The license plate or plates are registered to the specific vehicle by the Department;

309 3. The owner of the vehicle periodically registers the vehicle with the Department and pays a  
310 registration fee for the vehicle equal to that which would be charged to obtain regular state license  
311 plates for that vehicle;

312 4. The vehicle passes a periodic safety inspection as provided in Article 21 (§ 46.2-1157 et seq.) of  
313 Chapter 10 of this title;

314 5. The vehicle displays current decals attached to the license plate, issued by the Department,  
315 indicating the valid registration period for the vehicle; and

316 6. When applicable, the vehicle meets the requirement of Article 22 (§ 46.2-1176 et seq.) of Chapter  
317 10 of this title.

318 If more than one request is made for use, as provided in this subsection, of license plates having the  
319 same number, the Department shall accept only the first such application. Only vehicles titled to the  
320 person seeking to use license plates as provided in this subsection shall be eligible to use license plates  
321 as provided in this subsection.

322 § 46.2-1167. Charges for inspection and reinspection; exemption.

323 A. Each official safety inspection station may charge no more than:

324 1. Fifty dollars for each inspection of any (i) tractor truck, (ii) truck that has a gross vehicle weight  
325 rating of 26,000 pounds or more, or (iii) motor vehicle that is used to transport passengers and has a  
326 seating capacity of more than fifteen passengers, including the driver;

327 2. Five dollars for each inspection of any motorcycle; and

328 3. Fifteen dollars for each inspection of any other vehicle.

329 No such charge shall be mandatory, however, and no such charge shall be made unless the station  
330 has previously contracted therefor.

331 B. Each official safety inspection station may charge one dollar for each reinspection of a vehicle  
332 rejected by the station, as provided in § 46.2-1158, if the vehicle is submitted for reinspection within the  
333 validity period of the rejection sticker. If a rejected vehicle is not submitted to the same station within  
334 the validity period of the rejection sticker or is submitted to another official safety inspection station, an  
335 amount no greater than that permitted under subsection A of this section may be charged for the  
336 inspection.

337 C. *In addition to all other fees that may be charged under this section, each official safety inspection*  
338 *station shall charge a fee of \$5 at the time any inspection is performed for which a fee may be charged*  
339 *under subsection A. All fees collected under this subsection shall be remitted by each official safety*  
340 *inspection station to the Department of Motor Vehicles on a monthly basis according to such procedures*  
341 *as required by the Department of Motor Vehicles.*

342 § 58.1-302. Definitions.

343 For the purpose of this chapter and unless otherwise required by the context:

344 "Affiliated" means two or more corporations subject to Virginia income taxes whose relationship to  
345 each other is such that (i) one corporation owns at least ~~eighty~~80 percent of the voting stock of the other  
346 or others or (ii) at least ~~eighty~~80 percent of the voting stock of two or more corporations is owned by  
347 the same interests.

348 "Compensation" means wages, salaries, commissions and any other form of remuneration paid or  
349 accrued to employees for personal services.

350 "Corporation" includes associations, joint stock companies and insurance companies.

351 "Domicile" means the permanent place of residence of a taxpayer and the place to which he intends  
352 to return even though he may actually reside elsewhere. In determining domicile, consideration may be  
353 given to the applicant's expressed intent, conduct, and all attendant circumstances including, but not  
354 limited to, financial independence, business pursuits, employment, income sources, residence for federal  
355 income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of  
356 personal and real property owned by the applicant, motor vehicle and other personal property  
357 registration, residence for purposes of voting as proven by registration to vote, if any, and such other  
358 factors as may reasonably be deemed necessary to determine the person's domicile.

359 "Foreign source income" means:

360 1. Interest, other than interest derived from sources within the United States;

361 2. Dividends, other than dividends derived from sources within the United States;

362 3. Rents, royalties, license, and technical fees from property located or services performed without  
363 the United States or from any interest in such property, including rents, royalties, or fees for the use of  
364 or the privilege of using without the United States any patents, copyrights, secret processes and  
365 formulas, good will, trademarks, trade brands, franchises, and other like properties;

366 4. Gains, profits, or other income from the sale of intangible or real property located without the

United States; and

5. The amount of an individual's share of net income attributable to a foreign source qualified business unit of an electing small business corporation (S corporation). For purposes of this subsection, qualified business unit shall be defined by § 989 of the Internal Revenue Code, and the source of such income shall be determined in accordance with §§ 861, 862 and 987 of the Internal Revenue Code.

In determining the source of "foreign source income," the provisions of §§ 861, 862, and 863 of the Internal Revenue Code shall be applied except as specifically provided in subsection 5 above.

"Income and deductions from Virginia sources" includes:

1. Items of income, gain, loss and deduction attributable to:  
 a. The ownership of any interest in real or tangible personal property in Virginia;  
 b. A business, trade, profession or occupation carried on in Virginia; or  
 c. Prizes paid by the Virginia Lottery Department, and gambling winnings from wagers placed or paid at a location in Virginia.

2. Income from intangible personal property, including annuities, dividends, interest, royalties and gains from the disposition of intangible personal property to the extent that such income is from property employed by the taxpayer in a business, trade, profession, or occupation carried on in Virginia.

"Individual" means all natural persons whether married or unmarried and fiduciaries acting for natural persons, but not fiduciaries acting for trusts or estates.

"Intangible expenses and costs" means:

1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, lease, transfer, or any other disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income;

2. Losses related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;

3. Royalty, patent, technical and copyright fees;

4. Licensing fees; and

5. Other similar expenses and costs.

"Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights and similar types of intangible assets, as well as money.

"Interest expenses and costs" means amounts directly or indirectly allowed as deductions under Section 163 of the Internal Revenue Code for purposes of determining taxable income under the Internal Revenue Code to the extent such expenses and costs are directly or indirectly for, related to, or in connection with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, lease, transfer, or disposition of intangible property.

"Nonresident estate or trust" means an estate or trust which is not a resident estate or trust.

"Related entity" means:

1. A stockholder who is an individual, or a member of the stockholder's family enumerated in Section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially or constructively, in the aggregate, at least 50 percent of the value of the taxpayer's outstanding stock;

2. A stockholder, or a stockholder's partnership, limited liability company, estate, trust or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts and corporations own directly, indirectly, beneficially or constructively, in the aggregate, at least 50 percent of the value of the taxpayer's outstanding stock; or

3. A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the taxpayer owns, directly, indirectly, beneficially or constructively, at least 50 percent of the value of the corporation's outstanding stock. The attribution rules of Section 318 of the Internal Revenue Code shall apply for purposes of determining whether the ownership requirements of this subdivision have been met.

"Related member" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is a related entity, a component member as defined in Section 1563(b) of the Internal Revenue Code, or is a person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code.

"Resident" applies only to natural persons and includes, for the purpose of determining liability for the taxes imposed by this chapter upon the income of any taxable year every person domiciled in Virginia at any time during the taxable year and every other person who, for an aggregate of more than 183 days of the taxable year, maintained his place of abode within Virginia, whether domiciled in Virginia or not. The word "resident" shall not include any member of the United States Congress who is domiciled in another state.

428 "Resident estate or trust" means:

- 429 1. The estate of a decedent who at his death was domiciled in the Commonwealth;  
430 2. A trust created by will of a decedent who at his death was domiciled in the Commonwealth;  
431 3. A trust created by or consisting of property of a person domiciled in the Commonwealth; or  
432 4. A trust or estate which is being administered in the Commonwealth.

433 "Sales" means all gross receipts of the corporation not allocated under § 58.1-407, except the sale or  
434 other disposition of intangible property shall include only the net gain realized from the transaction.

435 "State" means for purposes of Article 10 of this chapter any state of the United States, the District of  
436 Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any  
437 foreign country.

438 "Trust" or "estate" means a trust or estate, or a fiduciary thereof, which is required to file a fiduciary  
439 income tax return under the laws of the United States.

440 "Virginia fiduciary adjustment" means the net amount of the applicable modifications described in  
441 § 58.1-322 (including subsection E thereof if the estate or trust is a beneficiary of another estate or trust)  
442 which relate to items of income, gain, loss or deduction of an estate or trust. The fiduciary adjustment  
443 shall not include the modification in subsection D of § 58.1-322, except that the amount of state income  
444 taxes excluded from federal taxable income shall be included. The fiduciary adjustment shall also  
445 include the modification in subsection D of § 58.1-322, regarding the deduction for the purchase of a  
446 prepaid tuition contract or contribution to a savings trust account.

447 § 58.1-320. Imposition of tax.

448 A. *Except as provided in subsection B, a tax is hereby annually imposed on the Virginia taxable*  
449 *income for each taxable year of every individual as follows:*

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

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

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

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

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

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

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

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

464 Five and three-quarters percent on income in excess of \$14,000 for taxable years beginning January  
465 1, 1987, through December 31, 1987;

466 Five and three-quarters percent on income in excess of \$15,000 for taxable years beginning January  
467 1, 1988, through December 31, 1988;

468 Five and three-quarters percent on income in excess of \$16,000 for taxable years beginning January  
469 1, 1989, through December 31, 1989; and

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

472 B. 1. *The tax under subdivision 2 shall be imposed in lieu of the tax imposed under subsection A if*  
473 *the Virginia taxable income of the individual exceeds \$150,000 for the taxable year.*

474 2. *A tax is hereby annually imposed on the Virginia taxable income for each taxable year of every*  
475 *individual as follows:*

476 *For taxable years beginning on or after January 1, 2004, but before January 1, 2006, five and*  
477 *three-quarters percent on all income if Virginia taxable income exceeds \$150,000; and*

478 *For taxable years beginning on or after January 1, 2006, the five and three-quarters percent rate of*  
479 *tax shall be indexed annually in each such taxable year by an amount equivalent to the percentage*  
480 *increase in the Core Consumer Price Index for the 12-month period ending September 30 of the year*  
481 *immediately preceding the affected taxable year. In no event, however, shall the rate of tax under this*  
482 *subdivision exceed six and one-half percent.*

483 3. *The tax under this subsection shall be imposed on all taxable income.*

484 § 58.1-324. Husband and wife.

485 *For purposes of this section:*

486 *"Family Virginia taxable income" means, for the relevant taxable year, the combined Virginia*  
487 *taxable income of a husband and wife who are not legally separated.*

488 A. *If the federal taxable income of husband or wife is determined on a separate federal return, their*  
489 *Virginia taxable incomes shall be separately determined, if family Virginia taxable income is less than or*

equal to \$150,000.

B. 1. If family Virginia taxable income exceeds \$150,000 for the taxable year, the individual income tax shall be calculated on the family Virginia taxable income and the tax under subsection B of § 58.1-320 shall be imposed on all family Virginia taxable income. Each spouse shall be jointly and severally liable for such tax except as provided in subdivision 2.

2. In cases where family Virginia taxable income exceeds \$150,000 for the taxable year and separate income tax returns are filed, each spouse shall be severally liable on a pro rata basis for the income tax under subsection B of § 58.1-320, as calculated and imposed on all family Virginia taxable income. Each spouse's individual income tax liability shall be that portion of such tax on all family Virginia taxable income as the spouse's Virginia taxable income for the taxable year bears to the combined Virginia taxable income of both spouses for the taxable year.

BC. If the federal taxable income of husband and wife is determined on a joint federal return, or if neither files a federal return:

1. Their tax shall be determined on their joint Virginia taxable income; or

2. Separate taxes may be determined on their separate Virginia taxable incomes if they so elect, provided the family Virginia taxable income is less than or equal to \$150,000.

CD. Where husband and wife have not separately reported and claimed items of income, exemptions and deductions for federal income tax purposes, and have not elected to file a joint Virginia income tax return, such items allowable for Virginia income tax purposes shall be allocated and adjusted as follows:

1. Income shall be allocated to the spouse who earned the income or with respect to whose property the income is attributable.

2. Allowable deductions with respect to trade, business, production of income, or employment shall be allocated to the spouse to whom attributable.

3. Nonbusiness deductions, where properly taken for federal income tax purposes, shall be allowable for Virginia income tax purposes, but shall be allocable between husband and wife as they may mutually agree. For this purpose, "nonbusiness deductions" consist of allowable deductions not described in subdivision 2 of this subsection.

4. Where the standard deduction or low income allowance is properly taken pursuant to subdivision D 1 a of § 58.1-322 such deduction or allowance shall be allocable between husband and wife as they may mutually agree.

5. Personal exemptions properly allowable for federal income tax purposes shall be allocated for Virginia income tax purposes as husband and wife may mutually agree; however, exemptions for taxpayer and spouse together with exemptions for old age and blindness must be allocated respectively to the spouse to whom they relate.

DE. Where allocations are permitted to be made under subsection C pursuant to agreement between husband and wife, and husband and wife have failed to agree as to those allocations, such allocations shall be made between husband and wife in a manner corresponding to the treatment for federal income tax purposes of the items involved, under regulations prescribed by the Department of Taxation.

§ 58.1-341. Returns of individuals.

A. On or before May 1 of each year if an individual's taxable year is the calendar year, or on or before the fifteenth day of the fourth month following the close of a taxable year other than the calendar year, an income tax return under this chapter shall be made and filed by or for:

1. Every resident individual, except as provided in § 58.1-321, required to file a federal income tax return for the taxable year, or having Virginia taxable income for the taxable year;

2. Every nonresident individual having Virginia taxable income for the taxable year, except as provided in § 58.1-321.

B. If the federal income tax liability of husband or wife is determined on a separate federal return, their Virginia income tax liabilities and returns shall be separate *except as provided under § 58.1-324*. If the federal income tax liabilities of husband and wife (other than a husband and wife described in subdivision 2 of subsection A) are determined on a joint federal return, or if neither files a federal return:

1. They shall file a joint Virginia income tax return, and their tax liabilities shall be joint and several; or

2. They may elect to file separate Virginia income tax returns if they comply with the requirements of the Department in setting forth information (whether or not on a single form), in which event their tax liabilities shall be separate, *except as provided under § 58.1-324* or unless such husband and wife file separately on a combined return. The election permitted under this subsection may be made or changed at any time within three years from the last day prescribed by law for the timely filing of the return.

C. If either husband or wife is a resident and the other is a nonresident, they shall file separate Virginia income tax returns on such single or separate forms as may be required by the Department, in

551 which event their tax liabilities shall be separate except as provided in subsection D, unless both elect to  
 552 determine their joint Virginia taxable income as if both were residents, in which event their tax  
 553 liabilities shall be joint and several.

554 D. If husband and wife file separate Virginia income tax returns on a single form pursuant to  
 555 subsection B or C, and:

556 1. If the sum of the payments by either spouse, including withheld and estimated taxes, exceeds the  
 557 amount of the tax for which such spouse is separately liable, the excess may be applied by the  
 558 Department to the credit of the other spouse if the sum of the payments by such other spouse, including  
 559 withheld and estimated taxes, is less than the amount of the tax for which such other spouse is  
 560 separately liable;

561 2. If the sum of the payments made by both spouses with respect to the taxes for which they are  
 562 separately liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of  
 563 the excess may be made payable to both spouses.

564 The provisions of this subsection shall not apply if the return of either spouse includes a demand that  
 565 any overpayment made by him or her shall be applied only on account of his or her separate liability.

566 E. The return for any deceased individual shall be made and filed by his executor, administrator, or  
 567 other person charged with his property.

568 F. The return for an individual who is unable to make a return by reason of minority or other  
 569 disability shall be made and filed by his guardian, committee, fiduciary or other person charged with the  
 570 care of his person or property (other than a receiver in possession of only a part of his property), or by  
 571 his duly authorized agent.

572 *§ 58.1-390.1. Definitions.*

573 *The following words and terms, when used in this article, shall have the following meanings unless*  
 574 *the context clearly indicates otherwise:*

575 *"Pass-through entity" means any entity, including a limited partnership, a limited liability*  
 576 *partnership, a general partnership, a limited liability company, a professional limited liability company,*  
 577 *a business trust or a Subchapter S corporation, that is recognized as a separate entity for federal*  
 578 *income tax purposes, in which the partners, members or shareholders report their share of the income,*  
 579 *gains, losses, deductions and credits from the entity on their federal income tax returns.*

580 *"Owner" means any individual or entity who is treated as a partner, member, or shareholder of a*  
 581 *pass-through entity for federal income tax purposes.*

582 *§ 58.1-390.2. Taxation of pass-through entities.*

583 *Except as provided for in this article, owners of pass-through entities shall be liable for tax under*  
 584 *this chapter only in their separate or individual capacities.*

585 *§ 58.1-391. Virginia taxable income of owners of a pass-through entity.*

586 A. In determining Virginia taxable income of a ~~partner~~ *an owner of a pass-through entity*, any  
 587 modification described in § 58.1-322 ~~which~~ *that* relates to an item of ~~partnership~~ *pass-through entity*  
 588 income, gain, loss or deduction shall be made in accordance with the ~~partner's~~ *owner's* distributive share,  
 589 for federal income tax purposes, of the item to which the modification relates. Where a ~~partner's~~ *an*  
 590 *owner's* distributive share of any such item is not included in any category of income, gain, loss or  
 591 deduction required to be taken into account separately for federal income tax purposes, the  
 592 ~~partner's~~ *owner's* distributive share of such item shall be determined in accordance with his distributive  
 593 share, for federal income tax purposes, of ~~partnership~~ *pass-through entity* taxable income or loss.

594 B. Each item of ~~partnership~~ *pass-through entity* income, gain, loss or deduction shall have the same  
 595 character for a ~~partner~~ *an owner* under this chapter as for federal income tax purposes. Where an item is  
 596 not characterized for federal income tax purposes, it shall have the same character for a ~~partner~~ *an owner*  
 597 as if realized directly from the source from which realized by the ~~partnership~~ *pass-through entity* or  
 598 incurred in the same manner by the ~~partnership~~ *pass-through entity*.

599 C. Where a ~~partner's~~ *an owner's* distributive shares of an item of ~~partnership~~ *pass-through entity*  
 600 income, gain, loss or deduction is determined for federal income tax purposes by special provision in the  
 601 ~~partnership~~ *pass-through entity* agreement with respect to such item, and where the principal purpose of  
 602 such provision is the avoidance or evasion of tax under this chapter, the ~~partner's~~ *owner's* distributive  
 603 share of such item, and any modification required with respect thereto, shall be determined as if the  
 604 ~~partnership~~ *pass-through entity* agreement made no special provision with respect to such item.

605 *§ 58.1-392. Reports by pass-through entities.*

606 No report shall be required to be filed with the Department of Taxation by any ~~partnership~~ *organized*  
 607 ~~under the laws of the Commonwealth or having income from Virginia sources.~~ However, the Tax  
 608 Commissioner shall have the authority to promulgate regulations requiring that partnerships furnish  
 609 copies of federal partnership returns and attached schedules or any other information which he deems  
 610 necessary. In promulgating such regulations, the Tax Commissioner may prescribe the imposition of a  
 611 penalty in the amount of \$100 for failure to comply, within a reasonable time, to the request for  
 612 information as set forth therein.

A. Every pass-through entity doing business in Virginia, or having income from Virginia sources, shall make a return to the Department of Taxation on or before the fifteenth day of the fourth month following the close of its taxable year. Such returns shall be made and filed in the manner prescribed by the Department.

B. The return of a pass-through entity shall be signed by any one of the owners. An owner's name signed on the return shall be prima facie evidence that such owner is authorized to sign the return on behalf of the pass-through entity.

C. The Tax Commissioner may establish an income threshold for the filing of returns by pass-through entities and their owners. Pass-through entities and owners with income below this threshold shall not be required to file a return.

D. Receivers, trustees in dissolution, trustees in bankruptcy, and assignees operating the property or business of pass-through entities must make and file returns of income for such pass-through entities. If a receiver has full custody of and control over the business or property of a pass-through entity, he shall be deemed to be operating such business or property, whether he is engaged in carrying on the business for which the pass-through entity was organized or only in marshaling, selling, or disposing of its assets for purposes of liquidation.

E. Pass-through entities may be required to file the return using an electronic medium prescribed by the Tax Commissioner. The Tax Commissioner shall establish a minimum number of owners for the electronic filing requirement. Waivers shall be granted only if the Tax Commissioner finds that the requirement creates an unreasonable burden on the pass-through entity. All requests for waivers must be submitted to the Tax Commissioner in writing. Pass-through entities that have fewer than the established minimum number of owners may, at such pass-through entity's option, file such annual return on such prescribed electronic medium in lieu of filing the annual return on paper.

§ 58.1-393.1. Extension of time for filing return by pass-through entity.

A. Whenever any pass-through entity has been allowed or granted an extension of time within which to file any federal report of its income for any taxable year, the due date for the filing of the report or return required by this article shall be extended to the date six months after such due date, or 30 days after the extended date for filing the federal report, whichever is later.

B. In addition, the Department may grant an extension or extensions of time not to exceed a maximum of six months beyond the due date required by this article for filing such pass-through entity return.

§ 58.1-394.1. Failure of pass-through entity to make a return.

A. Any pass-through entity that fails to file a return required by this article within the time required shall be liable for a penalty of \$200 if the failure is for not more than one month, with an additional \$200 for each additional month or fraction thereof during which such failure to file continues, not exceeding six months in the aggregate. In no case, however, shall the penalty be less than \$200.

B. If any pass-through entity's failure to file a return required by this article exceeds six months, the Department shall assess a penalty of six percent of the total amount of Virginia taxable income derived by its owners from the pass-through entity for the taxable year. The Department may determine such penalty from any information in its possession. The penalty assessed pursuant to this subsection shall be reduced by the penalty assessed pursuant to subsection A and any tax paid by the owners on their share of income from the pass-through entity for the taxable year.

C. The penalties set forth in this subsection shall be assessed and collected by the Department in the manner provided for the assessment and collection of taxes under this chapter or in a civil action, at the instance of the Department. In addition, such pass-through entity shall be compellable by mandamus to file such return.

§ 58.1-394.2. Fraudulent returns, etc., of pass-through entities; penalty.

A. Any officer or owner of any pass-through entity who makes a fraudulent return or statement with the intent of assisting or facilitating the evasion of the payment of the taxes prescribed by this chapter by the pass-through entity or an owner shall be liable for a penalty of not more than \$1,000, to be assessed and collected in the manner provided for the assessment and collection of taxes under this chapter or in a civil action, at the instance of the Department.

B. In addition to other penalties provided by law, any officer or owner of a pass-through entity who makes a fraudulent return or statement with the intent of assisting or facilitating the evasion of the payment of the taxes prescribed by this chapter by the pass-through entity or an owner, or who willfully fails or refuses to make a return required by this chapter at the time or times required by law shall be guilty of a Class 1 misdemeanor. A prosecution under this section shall be commenced within five years next after the commission of the offense.

§ 58.1-395. Nonresident owners.

Pass-through entities may make written application to the Tax Commissioner for permission to file a statement of combined pass-through entity income attributable to nonresident owners and thereby relieve

674 *nonresident owners from filing individual nonresident returns. The application must state the reasons for*  
675 *seeking such permission. The Tax Commissioner, in his sole discretion, may, for good cause, grant*  
676 *permission to file a combined nonresident return upon such terms as he may determine.*

677 § 58.1-402. Virginia taxable income.

678 A. For purposes of this article, Virginia taxable income for a taxable year means the federal taxable  
679 income and any other income taxable to the corporation under federal law for such year of a corporation  
680 adjusted as provided in subsections B, C and D.

681 For a regulated investment company and a real estate investment trust, such term means the  
682 "investment company taxable income" and "real estate investment trust taxable income," respectively, to  
683 which shall be added in each case any amount of capital gains and any other income taxable to the  
684 corporation under federal law which shall be further adjusted as provided in subsections B, C and D.

685 B. There shall be added to the extent excluded from federal taxable income:

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

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

693 3. [Repealed.]

694 4. The amount of any net income taxes and other taxes, including franchise and excise taxes, which  
695 are based on, measured by, or computed with reference to net income, imposed by the Commonwealth  
696 or any other taxing jurisdiction, to the extent deducted in determining federal taxable income;

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

698 6. The amount of employee stock ownership credit carry-over deducted by the corporation in  
699 computing federal taxable income under § 404 (i) of the Internal Revenue Code;

700 7. The amount required to be included in income for the purpose of computing the partial tax on an  
701 accumulation distribution pursuant to § 667 of the Internal Revenue Code.

702 8. *a. For taxable years beginning on or after January 1, 2004, the amount of any interest expenses*  
703 *and costs and intangible expenses and costs directly or indirectly paid, accrued, or incurred to, or in*  
704 *connection directly or indirectly with one or more direct or indirect transactions with one or more*  
705 *related members to the extent such expenses and costs were deductible or deducted in computing federal*  
706 *taxable income for Virginia purposes. This addition shall not be required for any portion of the interest*  
707 *expenses and costs and intangible expenses and costs if one of the following applies:*

708 1. *The corresponding item of income received by the related member is subject to a tax based on or*  
709 *measured by net income imposed by Virginia, another state, or a foreign government that has entered*  
710 *into a comprehensive tax treaty with the United States government, or*

711 2. *The corporation can establish to the satisfaction of the Tax Commissioner that the interest*  
712 *expenses and costs and intangible expenses and costs meet both of the following: (i) the related member*  
713 *during the same taxable year directly or indirectly paid, accrued or incurred such portion to a person*  
714 *who is not a related member, and (ii) the transaction giving rise to the interest expenses and costs or*  
715 *the intangible expenses and costs between the corporation and the related member did not have as a*  
716 *principal purpose the avoidance of any portion of the tax due under this chapter.*

717 *b. Nothing in this subdivision shall be construed to limit or negate the Department's authority under*  
718 *§ 58.1-446.*

719 C. There shall be subtracted to the extent included in and not otherwise subtracted from federal  
720 taxable income:

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

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

728 3. Dividends upon stock in any domestic international sales corporation, as defined by § 992 of the  
729 Internal Revenue Code, 50 percent or more of the income of which was assessable for the preceding  
730 year, or the last year in which such corporation has income, under the provisions of the income tax laws  
731 of the Commonwealth.

732 4. The amount of any refund or credit for overpayment of income taxes imposed by this  
733 Commonwealth or any other taxing jurisdiction.

734 5. Any amount included therein by the operation of the provisions of § 78 of the Internal Revenue  
735 Code (foreign dividend gross-up).

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

7. Any amount included therein by the operation of § 951 of the Internal Revenue Code (subpart F income).

8. Any amount included therein which is foreign source income as defined in § 58.1-302.

9. [Repealed.]

10. The amount of any dividends received from corporations in which the taxpaying corporation owns 50 percent or more of the voting stock.

11. [Repealed.]

12. [Expired.]

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

14. For taxable years beginning on or after January 1, 1995, the amount for "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C (c) of the Internal Revenue Code.

15. For taxable years beginning on or after January 1, 2000, the total amount 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.

16. 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.

17. For taxable years beginning on and after January 1, 2001, any amount included therein with respect to § 58.1-440.1.

18. For 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 farming businesses; (b) any business holding a tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of 1938; or (c) any business having the right to grow tobacco pursuant to such a quota allotment.

19. 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.

20. 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.

D. Adjustments to federal taxable income shall be made to reflect the transitional modifications provided in § 58.1-315.

§ 58.1-441. Reports by corporations.

A. Every corporation organized under the laws of the Commonwealth, or having income from Virginia sources, *other than a Subchapter S corporation subject to the return filing requirements of § 58.1-392*, shall make a report to the Department on or before the fifteenth day of the fourth month following the close of its taxable year. Such reports shall be made on forms prescribed by the Department and shall contain such information, including the gross receipts from any business carried on in the Commonwealth and a depreciation schedule of property used in such trade or business, as may be necessary for the proper enforcement of this chapter and be accompanied by a copy of any federal tax return or report filed for such taxable year. The Department shall not require any nonprofit organization created exclusively to assist a law-enforcement official or agency in apprehending and convicting perpetrators of crimes, to report on such returns, or otherwise, the names of individuals or amounts paid to such individuals by the organization for providing information about certain crimes.

Receivers, trustees in dissolution, trustees in bankruptcy, and assignees, operating the property or

business of corporations must make returns of income for such corporations. If a receiver has full custody of and control over the business or property of a corporation, he shall be deemed to be operating such business or property, whether he is engaged in carrying on the business for which the corporation was organized or only in marshaling, selling, or disposing of its assets for purposes of liquidation.

B. Notwithstanding the provisions of subsection A, every organization to whom subdivision 5 of § 58.1-401 applies, and having unrelated business taxable income or other taxable income, shall make a report to the Department on or before the fifteenth day of the sixth month following the close of the organization's taxable year.

§ 58.1-520. Definitions.

As used in this article:

"Claimant agency" means any administrative unit of state, county, city or town government, including department, institution, commission, authority, or the office of Executive Secretary of the Supreme Court, any circuit or district court and the Internal Revenue Service. All state agencies and institutions shall participate in the setoff program.

"Debtor" means any individual having a delinquent debt or account with any claimant agency which obligation has not been satisfied by court order, set aside by court order, or discharged in bankruptcy.

"Delinquent debt" means any liquidated sum due and owing any claimant agency, or any restitution ordered paid to a clerk of the court pursuant to Title 19.2, including any amount of court costs or fines which have accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum which is legally collectible and for which a collection effort has been or is being made.

"Mailing date of notice" means the date of notice appearing thereon.

"Refund" means any individual's Virginia state or local income tax refund payable pursuant to §§ 58.1-309 and 58.1-546. This term also includes any refund belonging to a debtor resulting from the filing of a joint income tax return or a refund belonging to a debtor resulting from the filing of a return where husband and wife have elected to file a combined return and separately state their Virginia taxable incomes under the provisions of ~~§ 58.1-324 B 2~~ *subdivision C 2 of § 58.1-324*.

§ 58.1-605. To what extent and under what conditions cities and counties may levy local sales taxes; collection thereof by Commonwealth and return of revenue to each city or county entitled thereto.

A. No county, city or town shall impose any local general sales or use tax or any local general retail sales or use tax except as authorized by this section.

B. The council of any city and the governing body of any county may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of such city or county. *On or after July 1, 2004, the council of any city and the governing body of any county may levy an additional general retail sales tax at the rate of one-half percent to provide revenue for the general fund of such city or county.* Such tax shall be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. The applicable brackets of prices shall be as prescribed in § 58.1-628 for the combined state and local tax. No discount under § 58.1-622 shall be allowed on a local sales tax.

C. The council of any city and the governing body of any county desiring to impose a local sales tax under this section may do so by the adoption of an ordinance stating its purpose and referring to this section, and providing that such ordinance shall be effective on the first day of a month at least sixty days after its adoption. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption.

D. Any local sales tax levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax, with the adjustments required by § 58.1-628.

E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid into the state treasury to the credit of a special fund which is hereby created on the Comptroller's books under the name "Collections of Local Sales Taxes." Such local sales tax moneys shall be credited to the account of each particular city or county levying a local sales tax under this section. The basis of such credit shall be the city or county in which the sales were made as shown by the records of the Department and certified by it monthly to the Comptroller, namely, the city or county of location of each place of business of every dealer paying the tax to the Commonwealth without regard to the city or county of possible use by the purchasers. If a dealer has any place of business located in more than one political subdivision by reason of the boundary line or lines passing through such place of business, the amount of sales tax paid by such a dealer with respect to such place of business shall be treated for the purposes of this section as follows: one-half shall be assignable to each political subdivision where two are involved, one-third where three are involved, and one-fourth where four are involved.

F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in any month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia

in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax moneys, and such payments shall be charged to the account of each such city or county under the special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the payments for the next six months as follows: one-sixth of the total adjustment shall be included in the payments for the next six months. In addition, the payment shall include a refund of amounts erroneously not paid to the city or county and not previously refunded during the three years preceding the discovery of the error. A correction and adjustment in payments described in this subsection due to the misallocation of funds by the dealer shall be made within three years of the date of the payment error.

G. Such payments to counties are subject to the qualification that in any county wherein is situated any incorporated town constituting a special school district and operated as a separate school district under a town school board of three members appointed by the town council, the county treasurer shall pay into the town treasury for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of such town bears to the school age population of the entire county. If the school age population of any town constituting a separate school district is increased by the annexation of territory since the last preceding school age population census, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such census and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

H. One-half of such payments to counties are subject to the further qualification, other than as set out in subsection G above, that in any county wherein is situated any incorporated town not constituting a separate special school district which has complied with its charter provisions providing for the election of its council and mayor for a period of at least four years immediately prior to the adoption of the sales tax ordinance, the county treasurer shall pay into the town treasury of each such town for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of each such town bears to the school age population of the entire county, based on the latest statewide school census. The preceding requirement pertaining to the time interval between compliance with election provisions and adoption of the sales tax ordinance shall not apply to a tier-city. If the school age population of any such town not constituting a separate special school district is increased by the annexation of territory or otherwise since the last preceding school age population census, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such census and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

I. Notwithstanding the provisions of subsection H, the board of supervisors of a county may, in its discretion, appropriate funds to any incorporated town not constituting a separate school district within such county which has not complied with the provisions of its charter relating to the elections of its council and mayor, an amount not to exceed the amount it would have received from the tax imposed by this chapter if such election had been held.

J. It is further provided that if any incorporated town which would otherwise be eligible to receive funds from the county treasurer under subsection G or H of this section be located in a county which does not levy a general retail sales tax under the provisions of this law, such town may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of the town, subject to all the provisions of this section generally applicable to cities and counties. Any tax levied under the authority of this subsection shall in no case continue to be levied on or after the effective date of a county ordinance imposing a general retail sales tax in the county within which such town is located.

§ 58.1-606. To what extent and under what conditions cities and counties may levy local use tax; collection thereof by Commonwealth and return of revenues to the cities and counties.

A. The council of any city and the governing body of any county which has levied or may hereafter levy a city or county sales tax under § 58.1-605 may levy a city or county use tax at the rate of one percent to provide revenue for the general fund of such city or county. *On or after July 1, 2004, the council of any city and the governing body of any county that levies an additional general retail sales tax at an additional rate of one-half percent shall levy an additional city or county use tax at the additional rate of one-half percent to provide revenue for the general fund of such city or county.* Such tax shall be added to the rate of the state use tax imposed by this chapter and shall be subject to all the provisions of this chapter, and all amendments thereof, and the rules and regulations published with respect thereto, except that the applicable brackets of prices shall be as prescribed in § 58.1-628 for the combined state and local tax, and except that no discount under § 58.1-622 shall be allowed on a local use tax.

B. The council of any city and the governing body of any county desiring to impose a local use tax under this section may do so in the manner following:

920 1. If the city or county has previously imposed the local sales tax authorized by § 58.1-605, the local  
921 use tax may be imposed by the council or governing body by the adoption of a resolution by a majority  
922 of all the members thereof, by a recorded yea and nay vote, stating its purpose and referring to this  
923 section, and providing that the local use tax shall become effective on the first day of a month at least  
924 sixty days after the adoption of the resolution. A certified copy of such resolution shall be forwarded to  
925 the Tax Commissioner so that it will be received within five days after its adoption. The resolution  
926 authorized by this paragraph may be adopted in the manner stated notwithstanding any other provision  
927 of law, including any charter provision.

928 2. If the city or county has not imposed the local sales tax authorized by § 58.1-605, the local use  
929 tax may be imposed by ordinance together with the local sales tax in the manner set out in subsections  
930 B and C of § 58.1-605.

931 C. Any local use tax levied under this section shall be administered and collected by the Tax  
932 Commissioner in the same manner and subject to the same penalties as provided for the state use tax,  
933 with the adjustments required by § 58.1-628.

934 D. The local use tax authorized by this section shall not apply to transactions to which the sales tax  
935 applies, the situs of which for state and local sales tax purposes is the city or county of location of each  
936 place of business of every dealer paying the tax to the Commonwealth without regard to the city or  
937 county of possible use by the purchasers. However, the local use tax authorized by this section shall  
938 apply to tangible personal property purchased without this Commonwealth for use or consumption  
939 within the city or county imposing the local use tax, or stored within the city or county for use or  
940 consumption, where the property would have been subject to the sales tax if it had been purchased  
941 within this Commonwealth. The local use tax shall also apply to leases or rentals of tangible personal  
942 property where the place of business of the lessor is without this Commonwealth and such leases or  
943 rentals are subject to the state tax. Moreover, the local use tax shall apply in all cases in which the state  
944 use tax applies.

945 E. Out-of-state dealers who hold certificates of registration to collect the use tax from their customers  
946 for remittance to this Commonwealth shall, to the extent reasonably practicable, in filing their monthly  
947 use tax returns with the Tax Commissioner, break down their shipments into this Commonwealth by  
948 cities and counties so as to show the city or county of destination. If, however, the out-of-state dealer is  
949 unable accurately to assign any shipment to a particular city or county, the local use tax on the tangible  
950 personal property involved shall be remitted to the Commonwealth by such dealer without attempting to  
951 assign the shipment to any city or county.

952 F. Local use tax revenue shall be distributed among the cities and counties for which it is collected,  
953 respectively, as shown by the records of the Department, and the procedure shall be the same as that  
954 prescribed for distribution of local sales tax revenue under § 58.1-605. The local use tax revenue that is  
955 not accurately assignable to a particular city or county shall be distributed monthly by the appropriate  
956 state authorities among the cities and counties in this Commonwealth imposing the local use tax upon  
957 the basis of taxable retail sales in the respective cities and counties in which the local sales and use tax  
958 was in effect in the taxable month involved, as shown by the records of the Department, and computed  
959 with respect to taxable retail sales as reflected by the amounts of the local sales tax revenue distributed  
960 among such cities and counties, respectively, in the month of distribution. Notwithstanding any other  
961 provision of this section, the Tax Commissioner shall develop a uniform method to distribute local use  
962 tax. Any significant changes to the method of local use tax distribution shall be phased in over a five  
963 year period. Distribution information shall be shared with the affected localities prior to implementation  
964 of the changes.

965 G. All local use tax revenue shall be used, applied or disbursed by the cities and counties as  
966 provided in § 58.1-605 with respect to local sales tax revenue.

967 § 58.1-609.3. Commercial and industrial exemptions.

968 The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606  
969 shall not apply to the following:

970 1. Personal property purchased by a contractor which is used solely in another state or in a foreign  
971 country, which could be purchased by such contractor for such use free from sales tax in such other  
972 state or foreign country, and which is stored temporarily in Virginia pending shipment to such state or  
973 country.

974 2. (i) Industrial materials for future processing, manufacturing, refining, or conversion into articles of  
975 tangible personal property for resale where such industrial materials either enter into the production of or  
976 become a component part of the finished product; (ii) industrial materials that are coated upon or  
977 impregnated into the product at any stage of its being processed, manufactured, refined, or converted for  
978 resale; (iii) machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy, or  
979 supplies, used directly in processing, manufacturing, refining, mining or converting products for sale or  
980 resale; (iv) materials, containers, labels, sacks, cans, boxes, drums or bags for future use for packaging  
981 tangible personal property for shipment or sale; or (v) equipment, printing or supplies used directly to

produce a publication described in subdivision 3 of § 58.1-609.6 whether it is ultimately sold at retail or for resale or distribution at no cost. Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the preponderance of their use is directly in processing, manufacturing, refining, mining or converting products for sale or resale. The provisions of this subsection do not apply to the drilling, extraction, refining, or processing of oil, gas, natural gas and coalbed methane gas. *In addition, the exemption provided herein shall not be applicable to any machinery, tools, and equipment, or any other tangible personal property used in the generation of electric power, except for raw materials that are inputs to production of electricity.*

3. Tangible personal property sold or leased to (i) a public service corporation subject to a state franchise or license tax upon gross receipts, (ii) a telecommunications company as defined in § 58.1-400.1 or (iii) a telephone company chartered in the Commonwealth which is exclusively a local mutual association and is not designated to accumulate profits for the benefit of, or to pay dividends to, the stockholders or members thereof, for use or consumption by such corporation, company, person or mutual association directly in the rendition of its public service; and tangible personal property sold or leased to a public service corporation engaged in business as a common carrier of property or passengers by motor vehicle or railway, for use or consumption by such common carrier directly in the rendition of its public service.

4. Ships or vessels, or repairs and alterations thereof, used or to be used exclusively or principally in interstate or foreign commerce; fuel and supplies for use or consumption aboard ships or vessels plying the high seas, either in intercoastal trade between ports in the Commonwealth and ports in other states of the United States or its territories or possessions, or in foreign commerce between ports in the Commonwealth and ports in foreign countries, when delivered directly to such ships or vessels; or tangible personal property used directly in the building, conversion or repair of the ships or vessels covered by this subdivision. This exemption shall include dredges, their supporting equipment, attendant vessels, and fuel and supplies for use or consumption aboard such vessels, provided the dredges are used exclusively or principally in interstate or foreign commerce.

5. Tangible personal property purchased for use or consumption directly and exclusively in basic research or research and development in the experimental or laboratory sense.

6. Tangible personal property sold or leased to an airline operating in intrastate, interstate or foreign commerce as a common carrier providing scheduled air service on a continuing basis to one or more Virginia airports at least one day per week, for use or consumption by such airline directly in the rendition of its common carrier service.

7. Meals furnished by restaurants or food service operators to employees as a part of wages.

8. Tangible personal property including machinery and tools, repair parts or replacements thereof, and supplies and materials used directly in maintaining and preparing textile products for rental or leasing by an industrial processor engaged in the commercial leasing or renting of laundered textile products.

9. (i) Certified pollution control equipment and facilities as defined in § 58.1-3660, except for any equipment that has not been certified to the Department of Taxation by a state certifying authority pursuant to such section and (ii) effective retroactive to July 1, 1994, and ending July 1, 2006, certified pollution control equipment and facilities as defined in § 58.1-3660 and which, in accordance with such section, have been certified by the Department of Mines, Minerals and Energy for coal, oil and gas production, including gas, natural gas, and coalbed methane gas.

10. Parts, tires, meters and dispatch radios sold or leased to taxicab operators for use or consumption directly in the rendition of their services.

11. High speed electrostatic duplicators or any other duplicators which have a printing capacity of 4,000 impressions or more per hour purchased or leased by persons engaged primarily in the printing or photocopying of products for sale or resale.

12. From July 1, 1994, and ending July 1, 2006, raw materials, fuel, power, energy, supplies, machinery or tools or repair parts therefor or replacements thereof, used directly in the drilling, extraction, refining, or processing of natural gas or oil and the reclamation of the well area. For the purposes of this section, the term "natural gas" shall mean "gas," "natural gas," and "coalbed methane gas" as defined in § 45.1-361.1. For the purposes of this section, "drilling," "extraction," "refining," and "processing" shall include production, inspection, testing, dewatering, dehydration, or distillation of raw natural gas into a usable condition consistent with commercial practices, and the gathering and transportation of raw natural gas to a facility wherein the gas is converted into such a usable condition. Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the preponderance of their use is directly in the drilling, extraction, refining, or processing of natural gas or oil for sale or resale, or in well area reclamation activities required by state or federal law.

13. Beginning July 1, 1997, and ending July 1, 2011, (i) the sale, lease, use, storage, consumption, or distribution of an orbital or suborbital space facility, space propulsion system, space vehicle, satellite, or

space station of any kind possessing space flight capability, including the components thereof, irrespective of whether such facility, system, vehicle, satellite, or station is returned to this Commonwealth for subsequent use, storage or consumption in any manner when used to conduct spaceport activities; (ii) the sale, lease, use, storage, consumption or distribution of tangible personal property placed on or used aboard any orbital or suborbital space facility, space propulsion system, space vehicle, satellite or space station of any kind, irrespective of whether such tangible personal property is returned to this Commonwealth for subsequent use, storage or consumption in any manner when used to conduct spaceport activities; (iii) fuels of such quality not adapted for use in ordinary vehicles, being produced for, sold and exclusively used for space flight when used to conduct spaceport activities; (iv) the sale, lease, use, storage, consumption or distribution of machinery and equipment purchased, sold, leased, rented or used exclusively for spaceport activities and the sale of goods and services provided to operate and maintain launch facilities, launch equipment, payload processing facilities and payload processing equipment used to conduct spaceport activities.

For purposes of this subdivision, "spaceport activities" means activities directed or sponsored at a facility owned, leased, or operated by or on behalf of the Virginia Commercial Space Flight Authority.

The exemptions provided by this subdivision shall not be denied by reason of a failure, postponement or cancellation of a launch of any orbital or suborbital space facility, space propulsion system, space vehicle, satellite or space station of any kind or the destruction of any launch vehicle or any components thereof.

§ 58.1-801. Deeds generally; charter amendments.

A. On every deed admitted to record, except a deed exempt from taxation by law, there is hereby levied a state recordation tax. The rate of the tax shall be ~~fifteen~~ 20 cents on every \$100 or fraction thereof of the consideration of the deed or the actual value of the property conveyed, whichever is greater.

Upon deeds conveying property lying partly within the Commonwealth and partly without the Commonwealth, the tax herein imposed shall apply only to the value of so much of the property conveyed as is situated within the Commonwealth.

B. When the charter of a corporation is amended, and the only effect of such amendment is to change the corporate name of such corporation, the tax upon the recordation of a deed conveying to, or vesting in, such corporation under its changed name, the title to any or all of the real or personal property of such corporation held in its name as it existed immediately prior to such amendment, shall be fifty cents.

§ 58.1-803. Deeds of trust or mortgages; maximum tax.

A. A recordation tax on deeds of trust or mortgages is hereby imposed at a rate of ~~45¢~~ 20 cents on every \$100 or portion thereof of the amount of bonds or other obligations secured thereby. In the event of an open or revolving deed of trust, the amount of the obligation for purposes of this section shall be the maximum amount which may be outstanding at any one time. In any case in which the amount which may be secured under a deed of trust or mortgage is not ascertainable, the tax shall be based upon the fair market value of the property conveyed, determined as of the date of the deed of trust or mortgage. The fair market value of the property shall include the value of any realty required by the terms of the deed of trust or mortgage to be constructed thereon.

B. On deeds of trust or mortgages upon the works and property of a railroad lying partly within the Commonwealth and partly without the Commonwealth, the tax shall be only upon such proportion of the amount of bonds, or other obligations secured thereby, as the number of miles of the line of such company in the Commonwealth bears to the whole number of miles of the line of such company conveyed by such deed of trust or mortgage.

Upon deeds of trust or mortgages conveying other property lying partly within the Commonwealth and partly without the Commonwealth the tax herein imposed shall be only upon such proportion of the debt secured as the value of the property located within the Commonwealth, or which may be brought into the Commonwealth, bears to the entire amount of property conveyed by such deed of trust or mortgage.

C. On deeds of trust or mortgages, which provide for an initial issue of bonds, to be followed thereafter by additional bonds, unlimited in amount, if such deed of trust or mortgage provides that as and when such additional bonds are issued a supplemental indenture shall be recorded in the office in which the original deed of trust or mortgage is first recorded, which supplement shall contain a statement as to the amount of the additional bonds to be issued, then the tax shall be paid upon the initial amount of bonds when the original deed of trust is recorded and thereafter on each additional amount of bonds when the supplemental indenture relating to such additional bonds is recorded.

On deeds of trust or mortgages which are supplemental to or wrap around existing deeds of trust on which the tax imposed hereunder has already been paid, the tax shall be paid only on that portion of the face amount of the bond or obligation secured thereby which is in addition to the amount of the existing debt secured by a deed of trust or mortgage on which tax has been paid. The instrument shall certify the

amount of the existing debt.

D. On deeds of trust or mortgages, the purpose of which is to refinance or modify the terms of an existing debt with the same lender, which debt is secured by a deed of trust or mortgage on which the tax imposed hereunder has been paid, the tax shall be paid only on that portion of the amount of the bond or other obligation secured thereby which is in addition to the amount of the original debt secured by a deed of trust or mortgage on which the tax has been paid. The instrument shall certify the amount of original debt.

E. The maximum tax on the recordation of any deed of trust or mortgage or on any indenture supplemental thereto shall be determined in accordance with the following schedule:

On the first 10 million dollars of value as determined pursuant to this section, ~~15¢~~ 20 cents upon every \$100 or portion thereof;

On the next 10 million dollars of value as determined pursuant to this section, ~~12¢~~ 17 cents upon every \$100 or portion thereof;

On the next 10 million dollars of value as determined pursuant to this section, ~~9¢~~ 14 cents upon every \$100 or portion thereof;

On the next 10 million dollars of value as determined pursuant to this section, ~~6¢~~ 11 cents upon every \$100 or portion thereof; and

On all over 40 million dollars of value as determined pursuant to this section, ~~3¢~~ 8 cents upon every \$100 or portion thereof, incorporated into this section.

§ 58.1-807. Contracts generally; leases.

A. Except as hereinafter provided, on every contract or memorandum thereof relating to real or personal property admitted to record, a recordation tax is hereby levied at the rate of ~~fifteen~~ 20 cents on every \$100 or fraction thereof of the consideration or value contracted for.

B. The recordation of a deed of lease for a term of years, or assignment of the lessee's interest therein, or memorandum thereof, shall be taxed according to the provisions of this section, unless provided otherwise in § 58.1-809 or unless the annual rental, multiplied by the term for which the lease runs, or remainder thereof, equals or exceeds the actual value of the property leased. In such cases the tax for recording the deed of lease shall be based upon the actual value of the property at the date of lease, including the value of any realty required by the terms of the lease to be constructed thereon by the lessor.

C. The recordation of an assignment of the lessor's interest in a lease, or memorandum thereof, shall be taxed according to the provisions of this section, unless the assignment of the lessor's interest in the lease is to provide additional security for an obligation of the lessor on which the tax has been previously paid, or the assignment of the lessor's interest is made to the person who owns the property which is subject to the lease. In such cases there shall be no tax for recording the lessor's assignment of the lease.

D. Notwithstanding the other provisions of this section, the tax on the recordation of leases of oil and gas rights shall not exceed ~~twenty-five dollars~~ \$25. The tax on the recordation of leases of coal and other mineral rights shall not exceed ~~fifty dollars~~ \$50.

E. Notwithstanding the other provisions of this section, the tax on the recordation of leases of outdoor advertising signs owned by a person engaged in the business of outdoor advertising licensed by the Virginia Department of Transportation pursuant to § 33.1-361 shall not exceed ~~twenty-five dollars~~ \$25.

§ 58.1-808. Sales contracts for the sale of rolling stock or equipment.

On every contract or agreement admitted to record relating to the sale of rolling stock or equipment, whether the title is reserved in the vendor or not, with a railroad corporation or other corporation or with a person, firm or company, the tax shall be ~~15¢~~ 20 cents on every \$100 or fraction thereof of the amount contracted for in such contract or agreement. When such contract or agreement is with a railroad corporation lying partly within the Commonwealth and partly without the Commonwealth, the tax shall be upon such proportion of the amount contracted for as the number of miles of the line of such railroad corporation in the Commonwealth bears to the whole number of miles of line of such railroad corporation.

§ 58.1-815. U.S. Route 58 Corridor Development Fund.

There is hereby created in the Department of the Treasury a special nonreverting fund which shall be a part of the Transportation Trust Fund and which shall be known as the U.S. Route 58 Corridor Development Fund, consisting of the first \$40 million of annual collections of the state recordation taxes imposed ~~by this chapter at the tax rates in effect on January 1, 2004, pursuant to this chapter~~; provided, however, this dedication shall not affect the local recordation taxes under §§ 58.1-802 B and 58.1-814. The Fund shall also include such other funds as may be appropriated by the General Assembly from time to time, and designated for this Fund and all interest, dividends and appreciation which may accrue thereto. Any moneys remaining in the Fund at the end of a biennium shall not revert to the General

1166 Fund, but shall remain in the Fund. Allocations from this Fund may be paid to any authority, locality or  
1167 commission for the purposes specified in § 33.1-221.1:2.

1168 § 58.1-816. Distribution of recordation tax to cities and counties.

1169 A. Effective October 1, 1993, twenty million dollars of the taxes imposed under §§ 58.1-801 through  
1170 58.1-809 *at the tax rates in effect on January 1, 2004*, which are actually paid into the state treasury,  
1171 shall be distributed among the counties and cities of this Commonwealth in the manner provided in  
1172 subsection B of this section. Effective July 1, 1994, such annual distribution shall increase to forty  
1173 million dollars.

1174 B. Subject to any transfers required under §§ 58.1-815.1 and 58.1-816.1, the share of the state taxes  
1175 distributable under this section among the counties and cities shall be apportioned and distributed  
1176 quarterly to each county or city by the Comptroller by multiplying the amount to be distributed by a  
1177 fraction in which the numerator is the amount of the taxes imposed under §§ 58.1-801 through 58.1-809  
1178 and actually paid into the state treasury which are attributable to deeds and other instruments recorded in  
1179 the county or city and the denominator is the amount of taxes imposed under §§ 58.1-801 through  
1180 58.1-809 actually paid into the state treasury. All distributions pursuant to this section shall be made on  
1181 a quarterly basis within thirty days of the end of the quarter. Such quarterly distribution shall equal ten  
1182 million dollars. Each clerk of the court shall certify to the Comptroller, within fifteen days after the end  
1183 of the quarter, all amounts collected under §§ 58.1-801 through 58.1-809 and actually paid into the state  
1184 treasury which are attributable to deeds and other instruments recorded in such county or city.

1185 C. All moneys distributed to counties and cities pursuant to this section shall be used for (i)  
1186 transportation purposes, including, without limitation, construction, administration, operation,  
1187 improvement, maintenance and financing of transportation facilities, or (ii) public education.

1188 As used in this section, the term "transportation facilities" shall include all transportation-related  
1189 facilities including, but not limited to, all highway systems, public transportation or mass transit systems  
1190 as defined in § 33.1-12, airports as defined in § 5.1-1, and port facilities as defined in § 62.1-140. Such  
1191 term shall be liberally construed for purposes of this section.

1192 D. If any revenues distributed to a county or city under subsection C of this section are applied or  
1193 expended for any transportation facilities under the control and jurisdiction of any state agency, board,  
1194 commission or authority, such transportation facilities shall be constructed, operated, administered,  
1195 improved and maintained in accordance with laws, rules, regulations, policies and procedures governing  
1196 such state agency, board, commission or authority; however, in the event these revenues, or a portion  
1197 thereof, are expended for improving or constructing highways in a county which is subject to the  
1198 provisions of § 33.1-75.3, such expenditures shall be undertaken in the manner prescribed in that statute.

1199 E. In the case of any distribution to a county or city in which an office sharing agreement pursuant  
1200 to §§ 15.2-1637 and 15.2-3822 is in effect, the Comptroller shall divide the distribution among the office  
1201 sharing counties and cities. Each clerk of the court acting pursuant to an office sharing agreement shall  
1202 certify to the Comptroller, within fifteen days after the end of the quarter, all amounts collected under  
1203 §§ 58.1-801 through 58.1-809 and actually paid into the state treasury which are attributable to deeds  
1204 and other instruments recorded on behalf of each county and city.

1205 § 58.1-901. Definitions.

1206 As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

1207 "Decedent" means a deceased person.

1208 "Federal credit" means the maximum amount of the credit for state death taxes allowable by § 2011  
1209 of the United States Internal Revenue Code of 1954, as amended or renumbered, or successor provision,  
1210 in respect to a decedent's taxable estate. The term "maximum amount" shall be construed as to take full  
1211 advantage of such credit as the laws of the United States may allow. ~~In no event, however, shall such~~  
1212 ~~amount be less than the federal credit allowable by § 2011 of the Internal Revenue Code as it existed on~~  
1213 ~~January 1, 1978.~~

1214 "Gross estate" means "gross estate" as defined in § 2031 of the United States Internal Revenue Code  
1215 of 1954, as amended or renumbered, or the successor provision of the laws of the United States.

1216 "Nonresident" means a decedent who was domiciled outside of the Commonwealth of Virginia at his  
1217 death.

1218 "Personal representative" means the personal representative of the estate of the decedent, appointed,  
1219 qualified and acting within the Commonwealth, or, if there is no personal representative appointed,  
1220 qualified and acting within the Commonwealth, then any person in actual or constructive possession of  
1221 the Virginia gross estate of the decedent.

1222 "Resident" means a decedent who was domiciled in the Commonwealth of Virginia at his death.

1223 "State" means any state, territory or possession of the United States and the District of Columbia.

1224 "Taxable estate" means "taxable estate" as defined in § 2051 of the United States Internal Revenue  
1225 Code of 1954, as amended or renumbered, or the successor provision of the laws of the United States.

1226 "Value" means "value" as finally determined for federal estate tax purposes under the laws of the  
1227 United States relating to federal estate taxes.

Any reference in this chapter to the laws of the United States relating to federal estate and gift taxes means the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal estate and gift taxes, as the same may be or become effective at any time or from time to time.

§ 58.1-1001. Tax levied; rate.

In addition to all other taxes now imposed by law, every person within this Commonwealth who sells, stores or receives cigarettes made of tobacco or any substitute thereof, for the purpose of distribution to any person within this Commonwealth, shall pay to this Commonwealth an excise tax of one and one-quarter ~~mills~~ *cents* on each such cigarette.

§ 58.1-2402. Levy.

A. There is hereby levied, in addition to all other taxes and fees of every kind now imposed by law, a tax upon the sale or use of motor vehicles in Virginia, other than (i) vehicles with a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more, or (ii) a sale to or use by a person for rental as an established business or part of an established business or incidental or germane to such business.

There shall also be levied a tax upon the rental of a motor vehicle in Virginia, without regard to whether such vehicle is required to be licensed by the Commonwealth. However, such tax shall not be levied upon a rental to a person for re-rental as an established business or part of an established business, or incidental or germane to such business.

The amount of the tax to be collected shall be determined by the Commissioner by the application of the following rates against the gross sales price or gross proceeds:

1. Three *and one-half* percent of the sale price of each motor vehicle sold in Virginia. If such motor vehicle is a manufactured home as defined in § 36-85.3, the tax shall be three *and one-half* percent of the sale price of each such manufactured home sold in this Commonwealth; if such vehicle is a mobile office as defined in § 58.1-2401, the tax shall be two *and one-half* percent of the sale price of each mobile office sold in this Commonwealth.

2. Three *and one-half* percent of the sale price of each motor vehicle, or three *and one-half* percent of the sale price of each manufactured home as defined in § 36-85.3, or two *and one-half* percent of the sale price of each mobile office as defined in § 58.1-2401, not sold in Virginia but used or stored for use in this Commonwealth. When any such motor vehicle or manufactured home is first used or stored for use in Virginia six months or more after its acquisition, the tax shall be based on its current market value.

3. Four percent of the gross proceeds from the rental in Virginia of any motor vehicle, except those with a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more.

4. In addition to the tax levied pursuant to subdivision A 3, a tax of ~~four~~ *seven* percent of the gross proceeds shall be levied on the rental in Virginia of any daily rental vehicle, whether or not such vehicle is required to be licensed in the Commonwealth.

5. The minimum tax levied on the sale of any motor vehicle in the Commonwealth shall be ~~thirty-five dollars~~ *\$35*, except as provided by those exemptions defined in § 58.1-2403.

B. A transaction taxed under subdivision A 1 shall not also be taxed under subdivision A 2, nor shall the same transaction be taxed more than once under either subdivision. A motor vehicle subject to the tax imposed under subdivision A 3 shall be subject to the tax under either subdivision A 1 or A 2 when it ceases to be used for rental as an established business or part of an established business, or incidental or germane to such business.

C. Any motor vehicle, trailer or semitrailer exempt from this tax under subdivision 1 or 2 of § 58.1-2403 shall be subject to the tax, based on the current market value when such vehicle is no longer owned, rented or used by the United States government or any governmental agency, or the Commonwealth of Virginia or any political subdivision thereof. Further, any motor vehicle, trailer or semitrailer exempt from the tax imposed by this chapter under subdivision 11 of § 58.1-2403 or §§ 46.2-663 through 46.2-674 shall be subject to the tax, based on the current market value, when such vehicle is subsequently licensed to operate on the highways of this Commonwealth.

D. Any person who with intent to evade or to aid another person to evade the tax provided for herein, falsely states the selling price of a vehicle on a bill of sale, assignment of title, application for title, or any other document or paper submitted to the Commissioner pursuant to any provisions of this title or Title 46.2, shall be guilty of a Class 3 misdemeanor.

E. Effective January 1, 1997, any amount designated as a "processing fee" and any amount charged by a dealer for processing a transaction, which is required to be included on a buyer's order pursuant to subdivision 10 of § 46.2-1530, shall be subject to the tax.

§ 58.1-2425. Disposition of revenues.

A. All funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in this section, these funds shall constitute special funds within the

Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds. The revenue so derived, after refunds have been deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the city, town, or county wherein such manufactured home is to be situated as a dwelling; (ii) all funds collected from the additional tax imposed by subdivision A 4 of § 58.1-2402 on the rental of daily rental vehicles shall be distributed quarterly to the city, town, or county wherein such vehicle was delivered to the rentee; (iii) effective January 1, 1987, an amount equivalent to the net additional revenues generated by enactments of the 1986 Special Session of the Virginia General Assembly which amended §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402 and this section shall be distributed to and paid into the Transportation Trust Fund, a special fund within the Commonwealth Transportation Fund, and are hereby appropriated to the Commonwealth Transportation Board for transportation needs; ~~and~~ (iv) except as otherwise provided in clause (iii) of this sentence, all moneys collected from the tax on the gross proceeds from the rental in Virginia of any motor vehicle pursuant to subdivision A 3 of § 58.1-2402 at the tax rate in effect on December 31, 1986, shall be paid by the Commissioner into the state treasury and shall be set aside in a special fund within the Commonwealth Transportation Fund to be used to meet the expenses of the Department of Motor Vehicles, *and (v) all funds collected by the additional tax imposed pursuant to subdivision A 4 of § 58.1-2402 by the 2004 Special Session of the General Assembly shall be deposited into the general fund of the Commonwealth.*

B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation Trust Fund pursuant to clause (iii) of subsection A of this section, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund.

**2. That the Department of Taxation shall promulgate any necessary and reasonable regulations to govern the administration of any sales and use taxes levied by localities by virtue of the authority created by this act, including, but not limited to, a bracket system for the collection of taxes in such localities.**

**3. That the additional revenues generated to localities pursuant to the additional taxes imposed pursuant to the amendments to §§ 58.1-605 and 58.1-606 shall not diminish or replace allocations or appropriations for education purposes made by any locality, but shall be supplemental to such allocations or appropriations.**

**4. That there is hereby appropriated to any county or city that imposes the additional taxes authorized by the amendments to §§ 58.1-605 and 58.1-606 in this act an amount equivalent to the amount by which the county's or city's additional annual revenue generated by such tax is less than the annual amount that the county or city would receive from a one-half percent state sales and use tax that would be allocated to each city and county on a set per pupil amount, based on the latest actual adjusted average daily membership, and adjusted by the locality's composite index of ability to pay as set forth in the general appropriation act.**

**5. That the amendment to § 58.1-901 pursuant to the provisions of this act shall apply to estates of persons who die after September 30, 2005.**