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HOUSE BILL NO. 1937

Offered January 10, 2007

Prefiled January 5, 2007

A BILL to amend and reenact § 58.1-3507 of the Code of Virginia, relating to machinery and tools tax.

Patrons—Purkey, Abbitt, Byron, Moran, Nixon and Poisson

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-3507 of the Code of Virginia is amended and reenacted as follows:**

§ 58.1-3507. Certain machinery and tools segregated for local taxation only; notice prior to change in valuation, hearing.

A. Machinery and tools, except *idle machinery and tools as defined in subsection D* and machinery and equipment used by farm wineries as defined in § 4.1-100, used in a manufacturing, mining, water well drilling, processing or reprocessing, radio or television broadcasting, dairy, dry cleaning or laundry business shall be listed and are hereby segregated as a class of tangible personal property separate from all other classes of property and shall be subject to local taxation only. The rate of tax imposed by a county, city or town on such machinery and tools shall not exceed the rate imposed upon the general class of tangible personal property. *Idle machinery and tools are taxable as capital under § 58.1-1101.*

B. Machinery and tools segregated for local taxation pursuant to subsection A, other than energy conservation equipment of manufacturers, shall be valued by means of depreciated cost or a percentage or percentages of original total capitalized cost excluding capitalized interest. *In valuing machinery and tools, the commissioner of the revenue shall, upon the written request of the taxpayer, consider any bona fide, independent appraisal presented by the taxpayer.*

Whenever the commissioner of the revenue proposes to change the means of valuing machinery and tools, such proposed change shall be published in a newspaper having general circulation in the affected locality at least 30 days before the proposed change would take effect and the citizens of the locality shall be allowed to submit written comments, during the 30-day period, to the commissioner of the revenue regarding the proposed change.

C. All motor vehicles which are registered pursuant to § 46.2-600 with the Department of Motor Vehicles and owned by persons engaged in those businesses set forth in subsection A shall be taxed as tangible personal property by the county, city or town in accordance with the provisions of this chapter. All other motor vehicles and delivery equipment owned by persons engaged in those businesses set forth in subsection A shall be included in and taxed as machinery and tools.

D. *"Idle machinery and tools" means machinery and tools:*

1. *That:*

a. *Have not been used for at least one year prior to any tax day; or*

b. *On and after January 1, 2007, have been specifically identified in writing by the taxpayer to the commissioner of the revenue or other assessing official, on or before April 1 of such year, as machinery and tools that the taxpayer intends to withdraw from service not later than the next succeeding tax day; and*

2. *For which there is no reasonable prospect of returning such machinery and tools to use during the taxable year.*

E. *If any machinery and tools taken out of use subsequent to January 1, 2007, are returned to use after having been previously classified as idle machinery and tools pursuant to subdivision D 1 b, the taxpayer shall identify such machinery and tools to the commissioner of the revenue or other assessing official in writing on or before the next tax return due date without extension, and such machinery and tools shall be subject to tax in accordance with the procedures provided in § 58.1-3903 in the same manner as if such machinery and tools had been in use on tax day of the year in which such return to use occurs. Any interest otherwise payable pursuant to applicable law or ordinance shall apply to taxes imposed pursuant to this subsection and paid after the due date. However, notwithstanding the provisions of § 58.1-3903, if the taxpayer has provided written notice of return to use in accordance with the provisions of this subsection, no penalty shall be levied with respect to any tax liability arising as a result of the return to use of machinery and tools classified as idle and actually idle prior to such return to use.*

2. That the provisions of this act amending subsection B of § 58.1-3507 shall become effective July 1, 2007.

3. That the remaining provisions of this act shall apply to taxable years beginning on or after July

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59 1, 2007. These provisions are intended to provide a uniform statewide statutory classification and
60 taxation for idle machinery and tools on a prospective basis only.
61 4. That any locality that did not tax idle machinery as capital in any taxable year beginning prior
62 to July 1, 2007, shall not be required to refund any machinery and tools taxes paid on idle
63 machinery and tools for any taxable year beginning prior to July 1, 2007.
64 5. That the Tax Commissioner shall have the power to issue guidelines, rules, and regulations
65 necessary to implement the provisions of this act, and the development of such guidelines and
66 rules shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000).