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HOUSE BILL NO. 2666

Offered January 10, 2007

Prefiled January 10, 2007

A BILL to amend and reenact §§ 58.1-1101, 58.1-3507, and 58.1-3660 of the Code of Virginia, relating to the classification of certain machinery and tools as intangible personal property and the exemption of certain certified pollution control equipment and facilities from taxation.

Patron—Purkey

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-1101, 58.1-3507, and 58.1-3660 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-1101. Classification.

A. The subjects of taxation classified by this section are hereby defined as intangible personal property:

1. Capital which is inventory, except wine while in the hands of a farm winery producer as defined in § 4.1-100, merchandise located in a foreign trade zone as defined in subdivision 7 of this subsection and any agricultural product held in this Commonwealth by any manufacturer for manufacturing or processing which is of such nature as customarily requires storage and processing for periods of more than one year in order to age or condition such product for manufacture. Such agricultural product shall be includible in inventory for one tax year only and after being taxed for one year shall thereafter be excluded for all succeeding tax years;

2. Capital which is personal property, tangible in fact, used in manufacturing (including, but not limited to, *machinery and tools, except machinery and equipment used by farm wineries as defined in § 4.1-100, used in manufacturing, mining, processing or reprocessing, placed in service on or after January 1, 2009*, furniture, fixtures, office equipment and computer equipment used in corporate headquarters), mining, water well drilling, radio or television broadcasting, dairy, dry cleaning or laundry businesses. Machinery and tools (*other than the machinery and tools described in the preceding sentence*), motor vehicles and delivery equipment of such businesses shall not be defined as intangible personal property for purposes of this chapter and shall be taxed locally as tangible personal property according to the applicable provisions of law relative to such property;

2a. Personal property, tangible in fact, used in cable television businesses. Machines and tools, motor vehicles, delivery equipment, trunk and feeder cables, studio equipment, antennae and office furniture and equipment of such businesses shall not be defined as intangible personal property for purposes of this chapter and shall be taxed locally as tangible personal property according to the applicable provisions of law relative to such property;

3. Money;

4. Bonds, notes, and other evidences of debt; demands and claims;

5. Shares of stock;

6. Accounts receivable;

7. All imported and exported foreign merchandise or domestic merchandise scheduled for export while in inventory located in a foreign trade zone within the Commonwealth;

8. Computer application software, except computer application software which is inventory as defined in subdivision 1 of this subsection, is defined as computer instructions, in any form, which are designed to be read by a computer and to enable it to perform specific operations with data or information stored by the computer; and

9. Capital which is personal property, tangible in fact, used in commercial fishing businesses, and used in the water to catch or harvest seafood, including but not limited to crab pots, nets, tongs, and dredge equipment. Fishing vessels and property permanently attached to such vessels shall not be defined as intangible personal property for purposes of this chapter and shall be taxed locally as tangible personal property according to the applicable provisions of law relative to such property.

B. [Repealed.]

C. The subjects of intangible personal property set forth in subdivisions 1 through 9 of subsection A shall be exempt from taxation as provided in Article X, Section 6 (a) (5) of the Constitution of Virginia.

§ 58.1-3507. Certain property segregated for local taxation only.

A. Machinery and tools, except machinery and equipment used by farm wineries as defined in § 4.1-100, ~~used~~:

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59 1. *Used in a manufacturing, mining, water well drilling, processing or reprocessing, radio or*
60 *television broadcasting, dairy, dry cleaning or laundry business shall be listed and are hereby segregated*
61 *as a class of tangible personal property separate from all other classes of property and shall be subject*
62 *to local taxation only. The rate of tax imposed by a county, city or town on such machinery and tools*
63 *shall not exceed the rate imposed upon the general class of tangible personal property; and*

64 2. *Used in manufacturing, mining, water well drilling, processing or reprocessing, placed in service*
65 *on or after January 1, 2009, is defined as intangible personal property and shall be subject to state*
66 *taxation only pursuant to Chapter 11 (§ 58.1-1100).*

67 B. Machinery and tools *described in subdivision A 1* segregated for local taxation pursuant to
68 subsection A, other than energy conservation equipment of manufacturers, shall be valued by means of
69 depreciated cost or a percentage or percentages of original total capitalized cost excluding capitalized
70 interest.

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

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

81 § 58.1-3660. Certified pollution control equipment and facilities.

82 A. Certified pollution control equipment and facilities, as defined herein, are hereby declared to be a
83 separate class of property and shall constitute a classification for local taxation separate from other such
84 classification of real or personal property and such property. The governing body of any county, city or
85 town may, by ordinance, exempt or partially exempt such property from local taxation. Certified
86 pollution control equipment and facilities consisting of equipment used in collecting, processing, and
87 distributing, or generating electricity from, landfill gas or synthetic or natural gas recovered from waste,
88 including equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative
89 cover for reuse as landfill gas or synthetic or natural gas recovery from waste, placed in service on or
90 after July 1, 2006, shall be exempt from state and local taxation pursuant to subsection d of Section 6 of
91 Article X of the Constitution of Virginia.

92 *Certified pollution control equipment and facilities, placed in service on or after January 1, 2009,*
93 *shall be exempt from state and local taxation pursuant to subsection d of Section 6 of Article X of the*
94 *Constitution of Virginia.*

95 B. As used in this section:

96 "Certified pollution control equipment and facilities" shall mean any property, including real or
97 personal property, equipment, facilities, or devices, used primarily for the purpose of abating or
98 preventing pollution of the atmosphere or waters of the Commonwealth and which the state certifying
99 authority having jurisdiction with respect to such property has certified to the Department of Taxation as
100 having been constructed, reconstructed, erected, or acquired in conformity with the state program or
101 requirements for abatement or control of water or atmospheric pollution or contamination. Such property
102 shall include, but is not limited to, any equipment used to grind, chip, or mulch trees, tree stumps,
103 underbrush, and other vegetative cover for reuse as mulch, compost, landfill gas, synthetic or natural gas
104 recovered from waste or other fuel, and equipment used in collecting, processing, and distributing, or
105 generating electricity from, landfill gas or synthetic or natural gas recovered from waste, whether or not
106 such property has been certified to the Department of Taxation by a state certifying authority.

107 "State certifying authority" shall mean the State Water Control Board, for water pollution; the State
108 Air Pollution Control Board, for air pollution; the Department of Mines, Minerals and Energy, for coal,
109 oil, and gas production, including gas, natural gas, and coalbed methane gas; and the Virginia Waste
110 Management Board, for waste disposal facilities, natural gas recovered from waste facilities, and landfill
111 gas production facilities, and shall include any interstate agency authorized to act in place of a certifying
112 authority of the Commonwealth.