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HOUSE BILL NO. 58

Offered January 9, 2008
Prefiled December 5, 2007

A BILL to amend and reenact §§ 58.1-3506.1, 58.1-3523, and 58.1-3912 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 58.1-3524.1 through 58.1-3524.6 and 58.1-3916.01:1, and to repeal § 58.1-3524 of the Code of Virginia, relating to personal property tax relief on qualifying vehicles.

Patron—Frederick

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3506.1, 58.1-3523, and 58.1-3912 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 58.1-3524.1 through 58.1-3524.6 and 58.1-3916.01:1 as follows:

§ 58.1-3506.1. Other classification for taxation of certain tangible personal property owned by certain elderly and handicapped persons.

The governing body of any county, city or town may, by ordinance, levy a tax on one motor vehicle owned and used primarily by or for anyone at least 65 years of age or anyone found to be permanently and totally disabled, as defined in § 58.1-3506.3, at a different rate from the tax levied on other tangible personal property, upon such conditions as the ordinance may prescribe. Such rate shall not exceed the ~~tangible personal property~~ tax ~~on the general class of tangible personal property~~ *rates levied on other motor vehicles*. For purposes of this article, the term motor vehicle shall include only automobiles and pickup trucks. Any such motor vehicle owned by a husband and wife may qualify if either spouse is 65 or over or if either spouse is permanently and totally disabled. ~~Notwithstanding any other provision of this section or article, for any automobile or pickup truck that is (i) a qualifying vehicle, as such term is defined in § 58.1-3523, and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a payment from the Commonwealth under Chapter 35.1 of this title for providing tangible personal property tax relief, the rate of tax levied pursuant to this article shall not exceed the rates of tax and rates of assessment required under such chapter.~~

§ 58.1-3523. Definitions.

As used in this chapter:

"Commissioner of the revenue" means the same as that set forth in § 58.1-3100. For purposes of this chapter, in a county or city which does not have an elected commissioner of the revenue, "commissioner of the revenue" means the officer who is primarily responsible for assessing motor vehicles for the purposes of tangible personal property taxation.

"Department" means the Department of ~~Motor Vehicles~~ *Taxation*.

"Effective tax rate" means the tax rate imposed by a locality on tangible personal property *on the applicable class of tangible personal property* multiplied by any assessment ratio ~~in effect~~.

"Leased" means leased by a natural person as lessee and used for nonbusiness purposes.

"Percentage level" means the percentage of the reimburseable amount to be reimbursed or paid by the Commonwealth.

"Privately owned" means owned by a natural person and used for nonbusiness purposes.

"Qualifying vehicle" means any passenger car, motorcycle, and pickup or panel truck, as those terms are defined in § 46.2-100, that is determined by the commissioner of the revenue of the county or city in which the vehicle has situs as provided by § 58.1-3511 to be (i) privately owned or (ii) leased pursuant to a contract requiring the lessee to pay the tangible personal property tax on such vehicle; or (iii) held in a private trust for nonbusiness purposes by an individual beneficiary. In determining whether a vehicle is a qualifying vehicle, the commissioner of revenue must rely on the registration of such vehicle with the Department *of Motor Vehicles* pursuant to Chapter 6 (§ 46.2-600 et seq.) of Title 46.2 or, for leased vehicles, the information of the Department pursuant to subsections B and C of § 46.2-623, unless the commissioner of the revenue has information that the Department's information is incorrect, or to the extent that the Department's information is incomplete. For purposes of this chapter, all-terrain vehicles and off-road motorcycles titled with the Department of Motor Vehicles shall not be deemed qualifying vehicles.

"Reimburseable amount" means the value of a qualifying vehicle, up to the first $20,000 of value, multiplied by the effective tax rate in effect in the locality on July 1, 1997, or August 1, 1997, whichever rate is greater.

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"Tangible personal property tax" means the tax levied pursuant to Article 1 (§ 58.1-3500 et seq.) of Chapter 35 of Title 58.1.

"Tax year" means the 12-month period beginning in the calendar year for which tangible personal property taxes are imposed.

"Treasurer" means the same as that set forth in § 58.1-3123, when used herein with respect to a county or city. When used herein with respect to a town, "treasurer" means the officer who is primarily responsible for the billing and collection of tangible personal property taxes levied upon motor vehicles by such town, and means the treasurer of the county or counties in which such town is located if such functions are performed for the town by the county treasurer or treasurers.

"Used for nonbusiness purposes" means the preponderance of use is for other than business purposes. The preponderance of use for other than business purposes shall be deemed not to be satisfied if: (i) the motor vehicle is expensed on the taxpayer's federal income tax return pursuant to Internal Revenue Code § 179; (ii) more than 50 percent of the basis for depreciation of the motor vehicle is depreciated for federal income tax purposes; or (iii) the allowable expense of total annual mileage in excess of 50 percent is deductible for federal income tax purposes or reimbursed pursuant to an arrangement between an employer and employee.

"Value" means the fair market value determined by the method prescribed in § 58.1-3503 and used by the locality in valuing the qualifying vehicle.

§ 58.1-3524.1. The Virginia Keep Our Promise Act of 2008: Payment to treasurers for tax year 2009 and thereafter.

A. For tax year 2009 and tax years thereafter, the Commonwealth shall pay to treasurers 100% of the reimbursable amount for each qualifying vehicle, if the conditions of this section are satisfied.

B. As provided by subsection E of § 58.1-3912, the treasurer shall include such amount as a deduction on the face of tangible personal property tax bills for qualifying vehicles and shall clearly designate such deduction as an amount to be paid by the Commonwealth. In addition to tangible personal property taxes levied on property other than qualifying vehicles, the taxpayer shall pay to the treasurer any payment due for the difference between tangible personal property taxes levied on a qualifying vehicle and such deduction. On or before the date the certified personal property tax book is required by § 58.1-3118 to be provided to the treasurer, the commissioner of the revenue shall identify each qualifying vehicle and its value to the treasurer of the locality.

C. Upon full payment of the tangible personal property tax levied on a qualifying vehicle, less the amount of the deduction, as described in subsection B, the treasurer shall make a request to the Commonwealth for payment of the reimbursable amount. Such request shall include a summary of the information appearing on the related tangible personal property tax bill. The summary information to be included in the request and the form of such request shall be prescribed by the Comptroller. Upon receipt of such information, the Comptroller shall issue the proper warrant for payment by the State Treasurer. If the Comptroller determines that a treasurer is unable to provide the summary information, he shall issue a warrant for payment to such treasurer in an amount equal to the estimate made by the Department under § 58.1-3524.4. Provided that the request for payment is received by the deadlines established and in the format prescribed by the Comptroller, he shall issue the warrant for payment no later than two business days after the receipt of the request from the treasurer.

D. 1. If a taxpayer is required to make a payment for the difference between the tangible personal property tax levied on a qualifying vehicle and the deduction as described in subsection B, the amount for such qualifying vehicle shall be paid by the Commonwealth to the treasurer at such times as are consistent with the treasurer's receipt of tangible personal property tax payments on qualifying vehicles as of January 1, 2009.

2. Except as provided in subdivision D 3, if a taxpayer is not required to return to the treasurer any payment of tangible personal property tax for a qualifying vehicle, the amount for such qualifying vehicle shall be paid by the Commonwealth to the treasurer over a four-week period. There shall be one equal payment in each week. The first payment shall be made four weeks prior to the county, city, or town's due date for tangible personal property taxes on qualifying vehicles as of January 1, 2009. However, the Comptroller shall not issue a warrant for payment unless he has received the certification described in § 58.1-3916.01:1.

3. If (i) a taxpayer is not required to return to the treasurer any payment of tangible personal property tax for a qualifying vehicle and (ii) the tangible personal property tax levy on such vehicle has been made as authorized under § 58.1-3516, the amount for such qualifying vehicle shall be paid by the Commonwealth to the treasurer at such times as are consistent with the treasurer's receipt of tangible personal property tax payments on qualifying vehicles as of January 1, 2009.

E. In addition to the summary information described in subsection C, the treasurer shall provide any additional information related to qualifying vehicles to the Department as required by the Department.

§ 58.1-3524.2. Reconciliation of amounts paid to counties, cities, and towns.

For tax years 2009 and all tax years thereafter, the Department and each treasurer shall reconcile

the amount paid by the Commonwealth to such treasurer. The Department may use the information described in subsections C and E of § 58.1-3524.1 and any other source or data it deems appropriate in making such a reconciliation. If the Department determines that the correct amount has not been paid to such treasurer, the Department shall (i) for any underpayments, make a written request to the Comptroller to make a payment for any underpayment; or (ii) for any overpayment, direct the Comptroller to reduce the respective county, city, or town's next payment or payments, in the current or succeeding years, under § 58.1-3524.1 accordingly.

§ 58.1-3524.3. Interest; Commonwealth to make payments when taxes paid in full.

A. Payments to treasurers under this chapter shall not include interest.

B. The Commonwealth shall not make the reimbursement to a taxpayer, as provided under § 58.1-3524.1, unless the tangible personal property taxes for the related qualifying vehicle have been paid in full.

C. The Commonwealth shall not make the reimbursement to a treasurer, as provided under subsection C of § 58.1-3524.1, unless the tangible personal property taxes for the related qualifying vehicle, if in excess of $5, have been paid in full. For the purposes of this section, taxes shall be deemed paid in full if (i) the taxpayer has been billed and has made a partial payment that is no more than $5 less than the actual amount due, (ii) the treasurer has determined that there is no reason to believe the erroneous payment was made in bad faith, and (iii) the treasurer has elected, pursuant to subsection A of § 58.1-3912, not to pursue collection of the balance.

D. Notwithstanding the provisions of subsections B and C of this section, if a county, city, or town has entered into an agreement with a taxpayer under which such taxpayer is allowed to satisfy the tangible personal property tax liability on a qualifying vehicle in installment payments, due to financial hardship, the Commonwealth shall pay the amount for such vehicle to the treasurer if the taxpayer has paid at least 50% of such tangible personal property tax liability.

§ 58.1-3524.4. Estimate of payments to be made by the Commonwealth.

On November 1 of each year, the Department shall estimate the amount to be paid by the Commonwealth under this chapter for the upcoming tax year and shall provide a report to the Governor of the same. Upon the request of the Comptroller, the Department shall also make an estimate of the amount to be paid by the Commonwealth in any tax year to an individual county, city, or town and shall report the estimated amount to the Comptroller.

§ 58.1-3524.5. Full payment of tangible personal property tax on qualifying vehicles not made.

Beginning in tax year 2009, notwithstanding any other provision of law, general and special, including the provisions of the charter of any county, city, or town:

1. If a taxpayer fails to make the payment described in subsection B of § 58.1-3524.1 by its due date or fails to comply with the filing requirements for qualifying vehicles under §§ 58.1-3518 and 58.1-3518.1, no interest may be imposed on any reimbursable amount to be paid by the Commonwealth. In calculating penalties to be imposed on the taxpayer for failure to make the payment described in subsection B of § 58.1-3524.1 by its due date or for failure of the taxpayer to comply with the filing requirements for qualifying vehicles under §§ 58.1-3518 and 58.1-3518.1, the treasurer may take into consideration the full amount of the tangible personal property tax levied including any reimbursable amount to be paid by the Commonwealth and any other relevant information.

2. If a taxpayer (i) fails to comply with the filing requirements for a qualifying vehicle under §§ 58.1-3518 and 58.1-3518.1 and (ii) is not required to return to the treasurer any payment of tangible personal property tax for such vehicle, no new or replacement local motor vehicle license for such vehicle, as described in Article 11 (§ 46.2-750 et seq.) of Chapter 6 of Title 46.2, shall be issued until the taxpayer complies with such filing requirements.

§ 58.1-3524.6. Personal Property Tax Relief Fund.

A. There is hereby created on the books of the Comptroller in the Department of the Treasury a special nonreverting fund that shall be known as the Personal Property Tax Relief Fund. The Fund shall consist of such funds as may be appropriated by the General Assembly from time to time. These funds shall be used exclusively for the payments to taxpayers and treasurers described in this chapter.

B. The Department shall annually, on or before November 1, make and deliver to the Governor and the Secretary of Finance a certificate stating the sum necessary to fund the payments to taxpayers and treasurers described in this chapter.

C. In the event the funds appropriated to the Fund are insufficient, or projected to be insufficient, to make payments to taxpayers or treasurers in the first year of a biennium, the Governor is authorized to transfer moneys from the second year to the first year to effect the payment.

In the event the funds appropriated to the Fund are insufficient, or projected to be insufficient, to make payments to treasurers in the second year of a biennium, the Governor is hereby directed to submit to the presiding officer of each house of the General Assembly, at its next regularly scheduled session, printed copies of a budget including the sum, if any, required to restore the Fund to a level

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sufficient to make payments to treasurers for the purpose set forth in this chapter.

§ 58.1-3912. Treasurers to mail certain bills to taxpayers; penalties; electronic transmission.

A. The treasurer of every city and county shall, as soon as reasonably possible in each year, but not later than 14 days prior to the due date of the taxes, send or cause to be sent by United States mail to each taxpayer assessed with taxes and levies for that year a bill or bills setting forth the amounts due. The treasurer may elect not to send a bill amounting to $20 or less as shown by an assessment book in such treasurer's office. The treasurer may employ the services of a mailing service or other vendor for fulfilling the requirements of this section. The failure of any such treasurer to comply with this section shall be a Class 4 misdemeanor. Such treasurer shall be deemed in compliance with this section as to any taxes due on real estate if, upon certification by the obligee of any note or other evidence of debt secured by a mortgage or deed of trust on such real estate that an agreement has been made with the obligor in writing within the mortgage or deed of trust instrument that such arrangements be made, he mails the bill for such taxes to the obligee thereof. Upon nonpayment of taxes by either the obligee or obligor, a past-due tax bill will be sent to the taxpayer. No governing body shall publish the name of a taxpayer in connection with a tax debt for which a bill was not sent, without first sending a notice of deficiency to his last known address at least two weeks before such publication.

B. The governing body of any county, city or town may attach to or mail with all real estate and tangible personal property tax bills, prepared for taxpayers in such locality, information indicating how the tax rate charged upon such property and revenue derived therefrom is apportioned among the various services and governmental functions provided by the locality.

C. Notwithstanding the provisions of subsection A of this section, in any county which has adopted the urban county executive form of government, and in any county contiguous thereto which has adopted the county executive form of government, tangible personal property tax bills shall be mailed not later than 30 days prior to the due date of such taxes.

D. Notwithstanding the provisions of subsection A of this section, any county and town, the governing bodies of which mutually agree, shall be allowed to send, to each taxpayer assessed with taxes, by United States mail no later than 14 days prior to the due date of the taxes, a single real property tax bill and a single tangible personal property tax bill.

E. Beginning with tax year ~~2006~~ *2009*, in addition to all other information currently appearing on tangible personal property tax bills, each such bill required to be sent pursuant to subsection A shall state on its face (i) whether the vehicle is a qualifying vehicle as defined in § 58.1-3523; (ii) ~~a statement indicating the reduced tangible personal property tax rates applied to qualifying vehicles resulting from the Commonwealth's reimbursements for tangible personal property tax relief pursuant to § 58.1-3524, and the locality's tangible personal property tax rate for its general class of tangible personal property, provided that such statement shall not be required for tax bills in any county, city, or town that will not receive any reimbursement pursuant to subsection B of § 58.1-3524~~ *a deduction for the reimbursable amount, as defined in § 58.1-3523, to be paid by the Commonwealth*; (iii) the vehicle's registration number pursuant to § 46.2-604; (iv) the amount of tangible personal property tax levied on the vehicle; and (v) if the locality prorates personal property tax pursuant to § 58.1-3516, the number of months for which a bill is being sent.

F. Notwithstanding the provisions of subsection A, the treasurer, consistent with guidelines promulgated by the Department of Taxation implementing the provisions of subdivision 2 of § 58.1-1820, may convey, with the written consent of the taxpayer, any tax bill by electronic means chosen by the taxpayer, including without limitation facsimile transmission or electronic mail (e-mail), in lieu of posting such bill by first-class mail. The treasurer conveying a bill by means authorized in this subsection shall maintain a copy (in written form or electronic media) of the bill reflecting the date of transmission until such time as the bill has been satisfied or otherwise removed from the treasurer's books by operation of law. Transmission of a bill pursuant to this subsection shall have the same force and effect for all purposes arising under this subtitle as mailing to the taxpayer by first-class mail on the date of transmission.

G. Any solid waste disposal fee imposed by a county may be attached to, mailed with, or stated on the appropriate real estate tax bill.

§ 58.1-3916.01:1. Billing and due dates for personal property tax on qualifying vehicles.

Notwithstanding any changes a county, city, or town may adopt regarding its billing date or due date for tangible personal property tax or any proration ordinance that may be adopted pursuant to § 58.1-3516 or 58.1-3516.1, payment by the Commonwealth for qualifying vehicles to any county, city, or town shall be made in accordance with the provisions of § 58.1-3524.1 at such times as are consistent with each locality's billing date or due date in effect on January 1, 2008, for tangible personal property tax. The treasurer shall certify such billing dates and due dates in effect on January 1, 2008, to the Comptroller by January 1, 2009.

2. That § 58.1-3524 of the Code of Virginia is repealed.

3. That the provisions of this act shall become effective on January 1, 2009.