

22102966D

HOUSE BILL NO. 1343

Offered January 21, 2022

A BILL to amend and reenact §§ 58.1-320, 58.1-321, 58.1-322.03, 58.1-339.8, 58.1-602, 58.1-603, as it is currently effective and as it may become effective, 58.1-603.1, as it is currently effective and as it may become effective, 58.1-603.2, 58.1-604.01, as it is currently effective and as it may become effective, 58.1-605.1, 58.1-606.1, 58.1-609.5, 58.1-609.11, 58.1-611.1, 58.1-612, 58.1-623, 58.1-647, 58.1-648, and 63.2-527, relating to taxation in the Commonwealth.

Patron—Watts

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-320, 58.1-321, 58.1-322.03, 58.1-339.8, 58.1-602, 58.1-603, as it is currently effective and as it may become effective, 58.1-603.1, as it is currently effective and as it may become effective, 58.1-603.2, 58.1-604.01, as it is currently effective and as it may become effective, 58.1-605.1, 58.1-606.1, 58.1-609.5, 58.1-609.11, 58.1-611.1, 58.1-612, 58.1-623, 58.1-647, 58.1-648, and 63.2-527 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-320. Imposition of tax.

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

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

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

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

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

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

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

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

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

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

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

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

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

B. For taxable years beginning on and after January 1, 2023, all amounts of income in this section shall be adjusted annually by a percentage, as determined by the Tax Commissioner and rounded to the nearest one-tenth of one percent, equal to the percentage increase in the Chained Consumer Price Index for All Urban Consumers (C-CPI-U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor, or any successor index used in place of the C-CPI-U for computing the standard deduction for federal individual income tax purposes, from September 1 through August 31 for the year immediately preceding the affected taxable year. The Tax Commissioner shall round such amounts of income to the nearest dollar.

§ 58.1-321. Exemptions and exclusions.

A. No tax levied pursuant to § 58.1-320 is imposed, nor any return required to be filed, by:

1. A single individual where the Virginia adjusted gross income plus the modification specified in subdivision 5 of § 58.1-322.03 for such taxable year is less than \$11,650 for taxable years beginning on and after January 1, 2010, but before January 1, 2012.

a. A single individual where the Virginia adjusted gross income plus the modification specified in subdivision 5 of § 58.1-322.03 for such taxable year is less than \$11,950 for taxable years beginning on and after January 1, 2012.

59 ~~2.~~ *b.* An individual and spouse if their combined Virginia adjusted gross income plus the  
 60 modification specified in subdivision 5 of § 58.1-322.03 is less than \$23,300 for taxable years beginning  
 61 on and after January 1, 2010 (or one-half of such amount in the case of a married individual filing a  
 62 separate return) but before January 1, 2012, and less than \$23,900 for taxable years beginning on and  
 63 after January 1, 2012 (or one-half of such amount in the case of a married individual filing a separate  
 64 return).

65 2. For the purposes of this section, "Virginia adjusted gross income" means federal adjusted gross  
 66 income for the taxable years with the modifications specified in §§ 58.1-322.01 and 58.1-322.02.

67 3. *For taxable years beginning on and after January 1, 2023, the amounts of Virginia adjusted gross*  
 68 *income referenced in subdivisions 1 a and b shall be adjusted annually by a percentage, as determined*  
 69 *by the Tax Commissioner and rounded to the nearest one-tenth of one percent, equal to the percentage*  
 70 *increase in the Chained Consumer Price Index for All Urban Consumers (C-CPI-U), as published by the*  
 71 *Bureau of Labor Statistics for the U.S. Department of Labor, or any successor index used in place of*  
 72 *the C-CPI-U for computing the standard deduction for federal individual income tax purposes, from*  
 73 *September 1 through August 31 for the year immediately preceding the affected taxable year. The Tax*  
 74 *Commissioner shall round such amounts of income to the nearest dollar.*

75 B. Persons in the Armed Forces of the United States stationed on military or naval reservations  
 76 within Virginia who are not domiciled in Virginia shall not be held liable to income taxation for  
 77 compensation received from military or naval service.

78 C. For taxable years beginning on and after January 1, 2020, but before January 1, 2026, any amount  
 79 that is includible in the federal adjusted gross income of an eligible veteran by reason of the whole or  
 80 partial discharge of any loan described in § 108(f)(5)(B) of the Internal Revenue Code shall be excluded  
 81 from Virginia adjusted gross income. This exclusion shall apply only to those discharges that (i) are  
 82 described in clauses (i), (ii), and (iii) of § 108(f)(5)(A) of the Internal Revenue Code and (ii) occur after  
 83 December 31, 2017. For the purposes of this subsection, "eligible veteran" means a veteran who has  
 84 been rated by the U.S. Department of Veterans Affairs, or its successor agency pursuant to federal law,  
 85 to have a 100 percent service-connected, permanent, and total disability.

86 **§ 58.1-322.03. Virginia taxable income; deductions.**

87 In computing Virginia taxable income pursuant to § 58.1-322, there shall be deducted from Virginia  
 88 adjusted gross income as defined in § 58.1-321:

89 1. a. The amount allowable for itemized deductions for federal income tax purposes where the  
 90 taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the  
 91 amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted  
 92 on such federal return and increased by an amount that, when added to the amount deducted under  
 93 § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for  
 94 such purposes at a rate of 18 cents per mile; or

95 b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income  
 96 tax return: (i) for taxable years beginning before January 1, 2019, ~~and on and after January 1, 2026,~~  
 97 \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a  
 98 married individual filing a separate return) ~~and~~; (ii) for taxable years beginning on and after January 1,  
 99 2019, but before January 1, ~~2026~~ 2023, \$4,500 for single individuals and \$9,000 for married persons  
 100 (one-half of such amounts in the case of a married individual filing a separate return); ~~and (iii) for~~  
 101 ~~taxable years beginning on and after January 1, 2023, \$6,000 for single individuals and \$12,000 for~~  
 102 ~~married persons (one-half of such amounts in the case of a married individual filing a separate return).~~  
 103 For purposes of this section, any person who may be claimed as a dependent on another taxpayer's  
 104 return for the taxable year may compute the deduction only with respect to earned income. *For taxable*  
 105 *years beginning on and after January 1, 2023, the amounts of the deductions referenced in clause (iii)*  
 106 *shall be adjusted annually by a percentage, as determined by the Tax Commissioner and rounded to the*  
 107 *nearest one-tenth of one percent, equal to the percentage increase in the Chained Consumer Price Index*  
 108 *for All Urban Consumers (C-CPI-U), as published by the Bureau of Labor Statistics for the U.S.*  
 109 *Department of Labor, or any successor index used in place of the C-CPI-U for computing the standard*  
 110 *deduction for federal individual income tax purposes, from September 1 through August 31 for the year*  
 111 *immediately preceding the affected taxable year. The Tax Commissioner shall round such amounts of*  
 112 *income to the nearest dollar.*

113 2. a. A deduction in the amount of \$930 for each personal exemption allowable to the taxpayer for  
 114 federal income tax purposes.

115 b. Each blind or aged taxpayer as defined under § 63(f) of the Internal Revenue Code shall be  
 116 entitled to an additional personal exemption in the amount of \$800.

117 The additional deduction for blind or aged taxpayers allowed under this subdivision shall be  
 118 allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income  
 119 tax purposes.

120 *c. For taxable years beginning on and after January 1, 2023, the amount of the exemptions*

121 *referenced in subdivision a or b shall be adjusted annually by a percentage, as determined by the Tax*  
 122 *Commissioner and rounded to the nearest one-tenth of one percent, equal to the percentage increase in*  
 123 *the Chained Consumer Price Index for All Urban Consumers (C-CPI-U), as published by the Bureau of*  
 124 *Labor Statistics for the U.S. Department of Labor, or any successor index used in place of the C-CPI-U*  
 125 *for computing the standard deduction for federal individual income tax purposes, from September 1*  
 126 *through August 31 for the year immediately preceding the affected taxable year. The Tax Commissioner*  
 127 *shall round such amounts of income to the nearest dollar.*

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

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

134 5. a. A deduction in the amount of \$12,000 for individuals born on or before January 1, 1939.

135 b. A deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have  
 136 attained the age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted  
 137 federal adjusted gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers.  
 138 For married taxpayers filing separately, the deduction shall be reduced by \$1 for every \$1 that the total  
 139 combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.

140 For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted  
 141 gross income minus any benefits received under Title II of the Social Security Act and other benefits  
 142 subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as amended.

143 6. The amount an individual pays as a fee for an initial screening to become a possible bone marrow  
 144 donor, if (i) the individual is not reimbursed for such fee or (ii) the individual has not claimed a  
 145 deduction for the payment of such fee on his federal income tax return.

146 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed  
 147 during the taxable year for a prepaid tuition contract or college savings trust account entered into with  
 148 the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as  
 149 provided in subdivision b, the amount deducted on any individual income tax return in any taxable year  
 150 shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction  
 151 shall be allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the  
 152 purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a  
 153 college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in  
 154 future taxable years until the purchase price or college savings trust contribution has been fully  
 155 deducted; however, except as provided in subdivision b, in no event shall the amount deducted in any  
 156 taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of  
 157 limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to  
 158 recapture in the taxable year or years in which distributions or refunds are made for any reason other  
 159 than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or  
 160 (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision,  
 161 "purchaser" or "contributor" means the person shown as such on the records of the Virginia College  
 162 Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid  
 163 tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax  
 164 attributes associated with a prepaid tuition contract or college savings trust account, including, but not  
 165 limited to, carryover and recapture of deductions.

166 b. A purchaser of a prepaid tuition contract or contributor to a college savings trust account who has  
 167 attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000  
 168 per prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be  
 169 allowed a deduction for the full amount paid for the contract or contributed to a college savings trust  
 170 account, less any amounts previously deducted.

171 8. The total amount an individual actually contributed in funds to the Virginia Public School  
 172 Construction Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1,  
 173 provided that the individual has not claimed a deduction for such amount on his federal income tax  
 174 return.

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

181 10. The amount an individual pays annually in premiums for long-term health care insurance,

182 provided that the individual has not claimed a deduction for federal income tax purposes, or, for taxable  
183 years beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on  
184 and after January 1, 2014, no such deduction for long-term health care insurance premiums paid by the  
185 individual during the taxable year shall be allowed if the individual has claimed a federal income tax  
186 deduction for such taxable year for long-term health care insurance premiums paid by him.

187 11. Contract payments to a producer of quota tobacco or a tobacco quota holder, or their spouses, as  
188 provided under the American Jobs Creation Act of 2004 (P.L. 108-357), but only to the extent that such  
189 payments have not been subtracted pursuant to subsection D of § 58.1-402, as follows:

190 a. If the payment is received in installment payments, then the recognized gain may be subtracted in  
191 the taxable year immediately following the year in which the installment payment is received.

192 b. If the payment is received in a single payment, then 10 percent of the recognized gain may be  
193 subtracted in the taxable year immediately following the year in which the single payment is received.  
194 The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

195 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6  
196 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the  
197 following items of tangible personal property: (i) any clothes washers, room air conditioners,  
198 dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency  
199 requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of  
200 Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an  
201 electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least  
202 two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating  
203 and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of  
204 at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and  
205 a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a  
206 cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that  
207 has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual  
208 fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization  
209 rating of 85; and (x) programmable thermostats.

210 13. The lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living  
211 tissue for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12  
212 months of such donation, provided that the donor has not taken a medical deduction in accordance with  
213 the provisions of § 213 of the Internal Revenue Code for such expenses. The deduction may be taken in  
214 the taxable year in which the donation is made or the taxable year in which the 12-month period  
215 expires.

216 14. For taxable years beginning on and after January 1, 2013, the amount an individual age 66 or  
217 older with earned income of at least \$20,000 for the year and federal adjusted gross income not in  
218 excess of \$30,000 for the year pays annually in premiums for (i) a prepaid funeral insurance policy  
219 covering the individual or (ii) medical or dental insurance for any person for whom individual tax filers  
220 may claim a deduction for such premiums under federal income tax laws. As used in this subdivision,  
221 "earned income" means the same as that term is defined in § 32(c) of the Internal Revenue Code. The  
222 deduction shall not be allowed for any portion of such premiums paid for which the individual has (a)  
223 been reimbursed, (b) claimed a deduction for federal income tax purposes, (c) claimed a deduction or  
224 subtraction under another provision of this section, or (d) claimed a federal income tax credit or any  
225 income tax credit pursuant to this chapter.

226 15. For taxable years beginning on and after January 1, 2018, 20 percent of business interest  
227 disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For purposes of this  
228 subdivision, "business interest" means the same as that term is defined under § 163(j) of the Internal  
229 Revenue Code.

230 16. For taxable years beginning on and after January 1, 2019, the actual amount of real and personal  
231 property taxes imposed by the Commonwealth or any other taxing jurisdiction not otherwise deducted  
232 solely on account of the dollar limitation imposed on individual deductions by § 164(b)(6)(B) of the  
233 Internal Revenue Code.

234 17. For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to  
235 \$100,000 of the amount that is not deductible when computing federal adjusted gross income solely on  
236 account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.

237 **§ 58.1-339.8. Income tax credit for low-income taxpayers.**

238 A. As used in this section, unless the context requires otherwise:

239 "Family Virginia adjusted gross income" means the combined Virginia adjusted gross income of an  
240 individual, the individual's spouse, and any person claimed as a dependent on the individual's or his  
241 spouse's income tax return for the taxable year.

242 "Household" means an individual or, in the case of married individuals, an individual and his  
243 spouse, regardless of whether the individual and his spouse file combined or separate Virginia

244 *individual income tax returns.*

245 "Poverty guidelines" means the poverty guidelines for the 48 contiguous states and the District of  
246 Columbia updated annually in the Federal Register by the U.S. Department of Health and Human  
247 Services under the authority of § 673(2) of the Omnibus Budget Reconciliation Act of 1981.

248 "Virginia adjusted gross income" has the same meaning as the term is defined in § 58.1-321.

249 B. 1. For taxable years beginning on and after January 1, 2000, any individual or persons filing a  
250 joint return whose family Virginia adjusted gross income does not exceed 100 percent of the poverty  
251 guideline amount corresponding to a household of an equal number of persons as listed in the poverty  
252 guidelines published during such taxable year, shall be allowed a credit against the tax levied pursuant  
253 to § 58.1-320 in an amount equal to \$300 each for the individual, the individual's spouse, and any  
254 person claimed as a dependent on the individual's or married individuals' income tax return for the  
255 taxable year. For any taxable year in which married individuals file separate Virginia income tax returns,  
256 the credit provided under this section shall be allowed against the tax for only one of such two tax  
257 returns. Additionally, the credit provided under this section shall not be allowed against such tax of a  
258 dependent of the individual or of married individuals.

259 2. For taxable years beginning on and after January 1, 2006, any individual or married individuals,  
260 eligible for a tax credit pursuant to § 32 of the Internal Revenue Code, may for the taxable year, in lieu  
261 of the credit authorized under subdivision B 1, claim a credit against the tax imposed pursuant to  
262 § 58.1-320 in an amount equal to 20 percent of the credit claimed by the individual or married  
263 individuals for federal individual income taxes pursuant to § 32 of the Internal Revenue Code for the  
264 taxable year. In no case shall a household be allowed a credit pursuant to this subdivision and  
265 subdivision B 1 for the same taxable year.

266 For the purpose of this subdivision, "household" means an individual and, in the case of married  
267 individuals, the individual and his spouse regardless of whether or not the individual and his spouse file  
268 combined or separate Virginia individual income tax returns.

269 C. 1. The amount of the credit ~~provided~~ *claimed* pursuant to ~~subsection~~ *subdivision B 1* or, in the  
270 case of a nonresident or a person to which § 58.1-303 applies, *subdivision B 2* for any taxable year  
271 shall not exceed the individual's or married individuals' Virginia income tax liability.

272 2. For taxable years beginning before January 1, 2022, the amount of credit claimed pursuant to  
273 subdivision B 2 shall not exceed a resident individual's or married individuals' Virginia income tax  
274 liability.

275 3. For taxable years beginning on and after January 1, 2022, a portion of the credit provided  
276 pursuant to subdivision B 2 in excess of a resident individual's or married individuals' Virginia income  
277 tax liability shall be refundable as specified in subdivisions a through k. The refundable portion of the  
278 credit shall be claimed on the Virginia income tax return and redeemed by the Tax Commissioner. The  
279 refundable portion of the credit provided pursuant to subdivision B 2 shall be as follows:

280 a. For taxable years beginning on and after January 1, 2022, but before January 1, 2023, 50 percent  
281 of such credit.

282 b. For taxable years beginning on and after January 1, 2023, but before January 1, 2024, 55 percent  
283 of such credit.

284 c. For taxable years beginning on and after January 1, 2024, but before January 1, 2025, 60 percent  
285 of such credit.

286 d. For taxable years beginning on and after January 1, 2025, but before January 1, 2026, 65 percent  
287 of such credit.

288 e. For taxable years beginning on and after January 1, 2026, but before January 1, 2027, 70 percent  
289 5 of 5 of such credit.

290 f. For taxable years beginning on and after January 1, 2027, but before January 1, 2028, 75 percent  
291 of such credit.

292 g. For taxable years beginning on and after January 1, 2028, but before January 1, 2029, 80 percent  
293 of such credit.

294 h. For taxable years beginning on and after January 1, 2029, but before January 1, 2030, 85 percent  
295 of such credit.

296 i. For taxable years beginning on and after January 1, 2030, but before January 1, 2031, 90 percent  
297 of such credit.

298 j. For taxable years beginning on and after January 1, 2031, but before January 1, 2032, 95 percent  
299 of such credit.

300 k. For taxable years beginning on and after January 1, 2032, 100 percent of such credit.

301 D. Notwithstanding any other provision of this section, no credit shall be allowed pursuant to  
302 subsection B in any taxable year in which the individual, the individual's spouse, or both, or any person  
303 claimed as a dependent on such individual's or married individuals' income tax return, claims one or any  
304 combination of the following on his or their income tax return for such taxable year:

- 305 1. The subtraction under subdivision 8 of § 58.1-322.02;  
 306 2. The subtraction under subdivision 15 of § 58.1-322.02;  
 307 3. The subtraction under subdivision 16 of § 58.1-322.02;  
 308 4. The deduction for the additional personal exemption for blind or aged taxpayers under subdivision  
 309 2 b of § 58.1-322.03; or  
 310 5. The deduction under subdivision 5 of § 58.1-322.03.

311 **§ 58.1-602. Definitions.**

312 As used in this chapter, unless the context clearly shows otherwise:

313 "Accommodations" means any room or rooms, lodgings, or accommodations in any hotel, motel, inn,  
 314 tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or  
 315 accommodations are regularly furnished to transients for a consideration.

316 "Accommodations fee" means the room charge less the discount room charge, if any, provided that  
 317 the accommodations fee shall not be less than \$0.

318 "Accommodations intermediary" means any person other than an accommodations provider that  
 319 facilitates the sale of an accommodation, charges a room charge to the customer, and charges an  
 320 accommodations fee to the customer, which fee it retains as compensation for facilitating the sale. For  
 321 purposes of this definition, "facilitates the sale" includes brokering, coordinating, or in any other way  
 322 arranging for the purchase of the right to use accommodations via a transaction directly, including via  
 323 one or more payment processors, between a customer and an accommodations provider.

324 "Accommodations intermediary" does not include a person:

325 1. If the accommodations are provided by an accommodations provider operating under a trademark,  
 326 trade name, or service mark belonging to such person; or

327 2. Who facilitates the sale of an accommodation if (i) the price paid by the customer to such person  
 328 is equal to the price paid by such person to the accommodations provider for the use of the  
 329 accommodations and (ii) the only compensation received by such person for facilitating the sale of the  
 330 accommodation is a commission paid from the accommodations provider to such person.

331 "Accommodations provider" means any person that furnishes accommodations to the general public  
 332 for compensation. The term "furnishes" includes the sale of use or possession or the sale of the right to  
 333 use or possess.

334 "Advertising" means the planning, creating, or placing of advertising in newspapers, magazines,  
 335 billboards, broadcasting and other media, including, without limitation, the providing of concept, writing,  
 336 graphic design, mechanical art, photography and production supervision. Any person providing  
 337 advertising as defined in this section shall be deemed to be the user or consumer of all tangible personal  
 338 property purchased for use in such advertising.

339 "Affiliate" means the same as such term is defined in § 58.1-439.18.

340 "Amplification, transmission and distribution equipment" means, but is not limited to, production,  
 341 distribution, and other equipment used to provide Internet-access services, such as computer and  
 342 communications equipment and software used for storing, processing and retrieving end-user subscribers'  
 343 requests.

344 "Business" includes any activity engaged in by any person, or caused to be engaged in by him, with  
 345 the object of gain, benefit or advantage, either directly or indirectly.

346 "Cost price" means the actual cost of an item or article of tangible personal property computed in the  
 347 same manner as the sales price as defined in this section without any deductions therefrom on account  
 348 of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

349 "Custom program" means a computer program that is specifically designed and developed only for  
 350 one customer. The combining of two or more prewritten programs does not constitute a custom  
 351 computer program. A prewritten program that is modified to any degree remains a prewritten program  
 352 and does not become custom.

353 "*Digital personal property*" means digital products delivered electronically, including software,  
 354 digital audio and audiovisual products, reading materials, and other data or applications, that the  
 355 purchaser owns or has the ability to continually access, whether by downloading, streaming, or  
 356 otherwise accessing the content, without having to pay an additional subscription or usage fee to the  
 357 seller after paying the initial purchase price.

358 "Discount room charge" means the full amount charged by the accommodations provider to the  
 359 accommodations intermediary, or an affiliate thereof, for furnishing the accommodations.

360 "Distribution" means the transfer or delivery of a taxable service or tangible personal property for  
 361 use, consumption, or storage by the distributee, and the use, consumption, or storage of a taxable  
 362 service or tangible personal property by a person that has processed, manufactured, refined, or converted  
 363 such taxable service or tangible personal property, but does not include the transfer or delivery of  
 364 tangible personal property for resale or any use, consumption, or storage otherwise exempt under this  
 365 chapter.

366 "Gross proceeds" means the charges made or voluntary contributions received for the lease or rental

367 of tangible personal property or for furnishing *taxable* services, computed with the same deductions,  
 368 where applicable, as for sales price as defined in this section over the term of the lease, rental, service,  
 369 or use, but not less frequently than monthly. "Gross proceeds" does not include finance charges, carrying  
 370 charges, service charges, or interest from credit extended on the lease or rental of tangible personal  
 371 property under conditional lease or rental contracts or other conditional contracts providing for the  
 372 deferred payments of the lease or rental price.

373 "Gross sales" means the sum total of all retail sales of tangible personal property or *taxable* services  
 374 as defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" does  
 375 not include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the  
 376 Internal Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the  
 377 article, or the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city  
 378 under § 58.1-605 or 58.1-606.

379 "Import" and "imported" are words applicable to *taxable services or* tangible personal property  
 380 imported into the Commonwealth from other states as well as from foreign countries, and "export" and  
 381 "exported" are words applicable to *taxable services or* tangible personal property exported from the  
 382 Commonwealth to other states as well as to foreign countries.

383 "In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth  
 384 of Virginia and includes all territory within these limits owned by or ceded to the United States of  
 385 America.

386 "Integrated process," when used in relation to semiconductor manufacturing, means a process that  
 387 begins with the research or development of semiconductor products, equipment, or processes, includes  
 388 the handling and storage of raw materials at a plant site, and continues to the point that the product is  
 389 packaged for final sale and either shipped or conveyed to a warehouse. Without limiting the foregoing,  
 390 any semiconductor equipment, fuel, power, energy, supplies, or other tangible personal property shall be  
 391 deemed used as part of the integrated process if its use contributes, before, during, or after production,  
 392 to higher product quality, production yields, or process efficiencies. Except as otherwise provided by  
 393 law, "integrated process" does not mean general maintenance or administration.

394 "Internet" means collectively, the myriad of computer and telecommunications facilities, which  
 395 comprise the interconnected worldwide network of computer networks.

396 "Internet service" means a service that enables users to access proprietary and other content,  
 397 information electronic mail, and the Internet as part of a package of services sold to end-user  
 398 subscribers.

399 "Lease or rental" means the leasing or renting of tangible personal property and the possession or use  
 400 thereof by the lessee or renter for a consideration, without transfer of the title to such property.

401 "Manufacturing, processing, refining, or conversion" includes the production line of the plant starting  
 402 with the handling and storage of raw materials at the plant site and continuing through the last step of  
 403 production where the product is finished or completed for sale and conveyed to a warehouse at the  
 404 production site, and also includes equipment and supplies used for production line testing and quality  
 405 control. "Manufacturing" also includes the necessary ancillary activities of newspaper and magazine  
 406 printing when such activities are performed by the publisher of any newspaper or magazine for sale  
 407 daily or regularly at average intervals not exceeding three months.

408 The determination of whether any manufacturing, mining, processing, refining or conversion activity  
 409 is industrial in nature shall be made without regard to plant size, existence or size of finished product  
 410 inventory, degree of mechanization, amount of capital investment, number of employees or other factors  
 411 relating principally to the size of the business. Further, "industrial in nature" includes, but is not limited  
 412 to, those businesses classified in codes 10 through 14 and 20 through 39 published in the Standard  
 413 Industrial Classification Manual for 1972 and any supplements issued thereafter.

414 "Modular building" means, but is not limited to, single and multifamily houses, apartment units,  
 415 commercial buildings, and permanent additions thereof, comprised of one or more sections that are  
 416 intended to become real property, primarily constructed at a location other than the permanent site, built  
 417 to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the  
 418 Virginia Department of Housing and Community Development, and shipped with most permanent  
 419 components in place to the site of final assembly. For purposes of this chapter, "modular building" does  
 420 not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and  
 421 certified under the provisions of the National Manufactured Housing Construction and Safety Standards  
 422 Act of 1974 (42 U.S.C. § 5401 et seq.).

423 "Modular building manufacturer" means a person that owns or operates a manufacturing facility and  
 424 is engaged in the fabrication, construction and assembling of building supplies and materials into  
 425 modular buildings, as defined in this section, at a location other than at the site where the modular  
 426 building will be assembled on the permanent foundation and may or may not be engaged in the process  
 427 of affixing the modules to the foundation at the permanent site.

428 "Modular building retailer" means any person that purchases or acquires a modular building from a  
429 modular building manufacturer, or from another person, for subsequent sale to a customer residing  
430 within or outside of the Commonwealth, with or without installation of the modular building to the  
431 foundation at the permanent site.

432 "Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions of  
433 the Virginia Motor Vehicles Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which all  
434 applicable motor vehicle sales and use taxes have been paid.

435 "Occasional sale" means a sale of *a taxable service or tangible personal property not provided*, held,  
436 or used by a seller in the course of an activity for which it is required to hold a certificate of  
437 registration, including the sale or exchange of all or substantially all the assets of any business and the  
438 reorganization or liquidation of any business, provided that such sale or exchange is not one of a series  
439 of sales and exchanges sufficient in number, scope and character to constitute an activity requiring the  
440 holding of a certificate of registration.

441 "Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for  
442 purposes of this chapter only, also includes Internet service regardless of whether the provider of such  
443 service is also a telephone common carrier.

444 "Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation,  
445 joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver,  
446 auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body  
447 politic or political subdivision, whether public or private, or quasi-public, and the plural of "person"  
448 means the same as the singular.

449 "Prewritten program" means a computer program that is prepared, held or existing for general or  
450 repeated sale or lease, including a computer program developed for in-house use and subsequently sold  
451 or leased to unrelated third parties.

452 "Qualifying locality" means Charlotte County, Gloucester County, Halifax County, Henry County,  
453 Mecklenburg County, Northampton County, Patrick County, Pittsylvania County, or the City of Danville.

454 "Railroad rolling stock" means locomotives, of whatever motive power, autocars, railroad cars of  
455 every kind and description, and all other equipment determined by the Tax Commissioner to constitute  
456 railroad rolling stock.

457 "Remote seller" means any dealer deemed to have sufficient activity within the Commonwealth to  
458 require registration under § 58.1-613 under the criteria specified in subdivision C 10 or 11 of  
459 § 58.1-612 or any software provider acting on behalf of such dealer.

460 "Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in  
461 the form of *a taxable service or tangible personal property or services taxable under this chapter*, and  
462 ~~shall include~~ *includes* any such transaction as the Tax Commissioner upon investigation finds to be in  
463 lieu of a sale. All sales for resale must be made in strict compliance with regulations applicable to this  
464 chapter. Any dealer making a sale for resale ~~which~~ *that* is not in strict compliance with such regulations  
465 shall be personally liable for payment of the tax.

466 The terms "retail sale" and a "sale at retail" specifically include the following: (i) the sale or charges  
467 for any accommodations furnished to transients for less than 90 continuous days; (ii) sales of tangible  
468 personal property to persons for resale when because of the operation of the business, or its very nature,  
469 or the lack of a place of business in which to display a certificate of registration, or the lack of a place  
470 of business in which to keep records, or the lack of adequate records, or because such persons are  
471 minors or transients, or because such persons are engaged in essentially service businesses, or for any  
472 other reason there is likelihood that the Commonwealth will lose tax funds due to the difficulty of  
473 policing such business operations; (iii) the separately stated charge made for automotive refinish repair  
474 materials that are permanently applied to or affixed to a motor vehicle during its repair; and (iv) the  
475 separately stated charge for equipment available for lease or purchase by a provider of satellite television  
476 programming to the customer of such programming. Equipment sold to a provider of satellite television  
477 programming for subsequent lease or purchase by the customer of such programming shall be deemed a  
478 sale for resale. The Tax Commissioner is authorized to promulgate regulations requiring vendors of or  
479 sellers to such persons to collect the tax imposed by this chapter on the cost price of such tangible  
480 personal property to such persons and may refuse to issue certificates of registration to such persons.  
481 The terms "retail sale" and a "sale at retail" also specifically include the separately stated charge made  
482 for supplies used during automotive repairs whether or not there is transfer of title or possession of the  
483 supplies and whether or not the supplies are attached to the automobile. The purchase of such supplies  
484 by an automotive repairer for sale to the customer of such repair services shall be deemed a sale for  
485 resale.

486 The term "transient" does not include a purchaser of camping memberships, time-shares,  
487 condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in,  
488 real estate, however created or sold and whether registered with the Commonwealth or not. Further, a  
489 purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a

490 specific real estate project on an ongoing basis throughout its term shall not be deemed a transient,  
491 provided, however, that the term or time period involved is for seven years or more.

492 The terms "retail sale" and "sale at retail" do not include a transfer of title to tangible personal  
493 property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i)  
494 at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the  
495 transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the  
496 purchaser manufactures goods.

497 "Retailer" means every person engaged in the business of making sales at retail, or for distribution,  
498 use, consumption, or storage to be used or consumed in the Commonwealth.

499 "Room charge" means the full retail price charged to the customer by the accommodations  
500 intermediary for the use of the accommodations, including any accommodations fee, before taxes. The  
501 room charge shall be determined in accordance with 23VAC10-210-730 and the related rulings of the  
502 Department on the same.

503 "Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional  
504 or otherwise, in any manner or by any means whatsoever, of tangible personal property and any  
505 rendition of a taxable service for a consideration, and includes the fabrication of tangible personal  
506 property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and  
507 the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on  
508 the premises of the person furnishing, preparing, or serving such tangible personal property. A  
509 transaction whereby the possession of property is transferred but the seller retains title as security for the  
510 payment of the price shall be deemed a sale.

511 "Sales price" means the total amount for which *taxable services or* tangible personal property ~~or~~  
512 ~~services are~~ *is* sold, including any *taxable* services that are a part of the sale, valued in money, whether  
513 paid in money or otherwise, and includes any amount for which credit is given to the purchaser,  
514 consumer, or lessee by the dealer, without any deduction therefrom on account of the cost of the  
515 property sold, the cost of materials used, labor or service costs, losses or any other expenses whatsoever.  
516 "Sales price" does not include (i) any cash discount allowed and taken; (ii) finance charges, carrying  
517 charges, service charges or interest from credit extended on sales of tangible personal property under  
518 conditional sale contracts or other conditional contracts providing for deferred payments of the purchase  
519 price; (iii) separately stated local property taxes collected; (iv) that portion of the amount paid by the  
520 purchaser as a discretionary gratuity added to the price of a meal; or (v) that portion of the amount paid  
521 by the purchaser as a mandatory gratuity or service charge added by a restaurant to the price of a meal,  
522 but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the  
523 price of the meal. Where used articles are taken in trade, or in a series of trades as a credit or part  
524 payment on the sale of new or used articles, the tax levied by this chapter shall be paid on the net  
525 difference between the sales price of the new or used articles and the credit for the used articles.

526 "Semiconductor cleanrooms" means the integrated systems, fixtures, piping, partitions, flooring,  
527 lighting, equipment, and all other property used to reduce contamination or to control airflow,  
528 temperature, humidity, vibration, or other environmental conditions required for the integrated process of  
529 semiconductor manufacturing.

530 "Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii)  
531 the related accessories, components, pedestals, bases, or foundations used in connection with the  
532 operation of the equipment, without regard to the proximity to the equipment, the method of attachment,  
533 or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other  
534 property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or  
535 maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control  
536 testing of product, materials, equipment, or processes; or the measurement of equipment performance or  
537 production parameters regardless of where or when the quality control, testing, or measuring activity  
538 takes place, how the activity affects the operation of equipment, or whether the equipment and supplies  
539 come into contact with the product.

540 "Storage" means any keeping or retention of tangible personal property for use, consumption or  
541 distribution in the Commonwealth, or for any purpose other than sale at retail in the regular course of  
542 business.

543 "*Streaming*" means a method of transmitting or receiving video and audio data over a computer  
544 network as a steady, continuous flow, allowing playback to proceed while subsequent data is being  
545 received.

546 "Tangible personal property" means personal property that may be seen, weighed, measured, felt, or  
547 touched, or is in any other manner perceptible to the senses. "Tangible personal property" does not  
548 include stocks, bonds, notes, insurance, or other obligations or securities. "Tangible personal property"  
549 includes (i) ~~telephone calling cards upon their initial sale, which shall be exempt from all other state and~~  
550 ~~local utility taxes, and~~ (ii) manufactured signs and (ii) digital personal property.

551 "Taxable service" means any of the following services used or consumed in the Commonwealth:

552 1. Admissions charged for attendance at any event or place of amusement or entertainment;

553 2. Charges to use any recreation, fitness, or sports facilities, including membership fees and dues;

554 3. Nonmedical personal services or counseling, including (i) hair care, nail care, skin care,  
555 cosmetology, beauty, tanning, exercise, nutrition, weight control, sensory stimulation, or relaxation  
556 services or counseling and (ii) piercing, tattooing, exfoliation, implants, and other cosmetic body  
557 modifications. Nonmedical personal services or counseling shall not include surgical procedures or  
558 separately billed services that must be performed by or under the direction of a person licensed or  
559 certified by a board within the Department of Health Professions, pursuant to Subtitle III (§ 54.1-2400  
560 et seq.) of Title 54.1;

561 4. Dry cleaning and laundry services, and garment and shoe repairs and alterations;

562 5. Companion animal care, including grooming, boarding, walking, training, and feeding.  
563 Companion animal care shall not include veterinary medical procedures or separately billed services  
564 that must be performed by or under the direction of a person licensed or certified by the Board of  
565 Veterinary Medicine pursuant to Chapter 38 (§ 54.1-3800 et seq.) of Title 54.1;

566 6. Residential home repair or maintenance, including carpentry, painting, plumbing, electrical, and  
567 HVAC, when the work performed does not require a state or local permit and is paid for directly by a  
568 resident or homeowner;

569 7. Residential landscaping services, including landscaping design and maintenance, lawn services, or  
570 tree removal, when paid for directly by a resident or homeowner;

571 8. Residential cleaning services, including housekeeping, rug cleaning, upholstery cleaning and  
572 dyeing, window cleaning, power washing, and servicing of swimming pools, when paid for directly by a  
573 resident or homeowner;

574 9. Vehicle and engine repair, maintenance, cleaning, painting, and remodeling;

575 10. Repairs or alterations to tangible personal property or the functioning thereof, including  
576 appliances, electronics, computers, jewelry, watches, musical instruments, and art;

577 11. Delivery or shipping services, including wrapping and packing;

578 12. Storage of tangible personal property, including climate-controlled storage and self-storage;

579 13. Travel, event, and aesthetic planning services that are separately billed from the sale of product,  
580 including travel agents, event planning, catering, and interior design services; and

581 14. Communications services that are not subject to the tax imposed pursuant to Chapter 6.2  
582 (§ 58.1-645 et seq.) and are not digital personal property. For purposes of this subdivision,  
583 "communications services" means the same as that term is defined in § 58.1-647.

584 "Taxable service" does not include any service otherwise exempt under this chapter.

585 "Use" means the exercise of any right or power over tangible personal property incident to the  
586 ownership thereof, except that it does not include the sale at retail of that property in the regular course  
587 of business. "Use" does not include the exercise of any right or power, including use, distribution, or  
588 storage, over any tangible personal property sold to a nonresident donor for delivery outside of the  
589 Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the  
590 Commonwealth via mail or telephone. "Use" does not include any sale determined to be a gift  
591 transaction, subject to tax under § 58.1-604.6.

592 "Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as defined in  
593 this section.

594 "Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to  
595 those activities that are an integral part of the production of a product, including all steps of an  
596 integrated manufacturing or mining process, but not including ancillary activities such as general  
597 maintenance or administration. When used in relation to mining, "used directly" refers to the activities  
598 specified in this definition and, in addition, any reclamation activity of the land previously mined by the  
599 mining company required by state or federal law.

600 "Video programmer" means a person that provides video programming to end-user subscribers.

601 "Video programming" means video and/or information programming provided by or generally  
602 considered comparable to programming provided by a cable operator, including, but not limited to,  
603 Internet service.

604 **§ 58.1-603. (Contingent expiration date) Imposition of sales tax.**

605 There is hereby levied and imposed, in addition to all other taxes and fees of every kind now  
606 imposed by law, a license or privilege tax upon every person who engages in the business of selling at  
607 retail or, distributing, leasing, renting, or furnishing taxable services or tangible personal property in this  
608 Commonwealth, or who rents or furnishes any of the things or services taxable under this chapter, or  
609 who stores for use or consumption in this Commonwealth any item or article of tangible personal  
610 property as defined in this chapter, or who leases or rents such property within this Commonwealth, in  
611 the amount of 4.3 percent:

612 1. Of the gross sales price of each taxable service or item or article of tangible personal property

613 when sold at retail ~~or~~, distributed, *or furnished* in this Commonwealth.

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

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

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

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

622 **§ 58.1-603. (Contingent effective date) Imposition of sales tax.**

623 There is hereby levied and imposed, in addition to all other taxes and fees of every kind now  
624 imposed by law, a license or privilege tax upon every person who engages in the business of selling at  
625 retail ~~or~~, distributing, *leasing, renting, or furnishing taxable services or* tangible personal property in this  
626 Commonwealth; ~~or who rents or furnishes any of the things or services taxable under this chapter,~~ or  
627 who stores for use or consumption in this Commonwealth any item or article of tangible personal  
628 property as defined in this chapter; ~~or who leases or rents such property within this Commonwealth,~~ in  
629 the amount of ~~three and one-half~~ 3.5 percent through midnight on July 31, 2004, and four percent  
630 beginning on and after August 1, 2004:

631 1. Of the gross sales price of each *taxable service or* item or article of tangible personal property  
632 when sold at retail ~~or~~, distributed, *or furnished* in this Commonwealth.

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

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

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

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

641 **§ 58.1-603.1. (Contingent expiration date) Additional state sales tax in certain counties and**  
642 **cities.**

643 A. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed  
644 in each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et  
645 seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more as shown by  
646 the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and  
647 has a total transit ridership of not less than 15 million riders per year across all transit systems within  
648 the Planning District or (ii) as shown by the most recent United States Census meets the population  
649 criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in  
650 clause (i), a retail sales tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant  
651 to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year  
652 in which all of the criteria have been met.

653 B. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed  
654 in each county and city located in Planning District 15 established pursuant to Chapter 42 (§ 15.2-4200  
655 et seq.) of Title 15.2 a retail sales tax at the rate of 0.70 percent. In no case shall an additional sales tax  
656 be imposed pursuant to both clause (ii) of subsection A and this subsection.

657 C. The tax imposed pursuant to subsections A and B ~~shall not be levied upon food purchased for~~  
658 ~~human consumption and essential personal hygiene products,~~ as such terms are defined in § 58.1-611.1.  
659 ~~Such tax~~ shall be added to the rate of the state sales tax imposed pursuant to § 58.1-603 in each such  
660 county and city and shall be subject to all the provisions of this chapter and the rules and regulations  
661 published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under  
662 this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner  
663 and subject to the same penalties as provided for the state sales tax under § 58.1-603.

664 D. The revenue generated and collected pursuant to the tax authorized under this section, less the  
665 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds  
666 established by law. In the case of Planning District 8, the revenue generated and collected therein shall  
667 be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue  
668 generated and collected therein shall be deposited into the fund established in § 33.2-2600. In the case  
669 of Planning District 15, the revenue generated and collected therein shall be deposited into the fund  
670 established in § 33.2-3701. For additional planning districts that may become subject to this section,  
671 funds shall be established by appropriate legislation.

672 **§ 58.1-603.1. (Contingent expiration date) Additional state sales tax in certain counties and**  
673 **cities.**

674 In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in  
675 each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et  
676 seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more as shown by  
677 the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and  
678 has a total transit ridership of not less than 15 million riders per year across all transit systems within  
679 the Planning District or (ii) as shown by the most recent United States Census meets the population  
680 criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in  
681 clause (i), a retail sales tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant  
682 to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year  
683 in which all of the criteria have been met. ~~Such tax shall not be levied upon food purchased for human  
684 consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1.~~ Such  
685 tax shall be added to the rate of the state sales tax imposed pursuant to § 58.1-603 in each such county  
686 and city and shall be subject to all the provisions of this chapter and the rules and regulations published  
687 with respect thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this  
688 section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and  
689 subject to the same penalties as provided for the state sales tax under § 58.1-603.

690 The revenue generated and collected pursuant to the tax authorized under this section, less the  
691 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds  
692 established by law. In the case of Planning District 8, the revenue generated and collected therein shall  
693 be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue  
694 generated and collected therein shall be deposited into the fund established in § 33.2-2600. For  
695 additional Planning Districts that may become subject to this section, funds shall be established by  
696 appropriate legislation.

697 **§ 58.1-603.2. (For contingent expiration date, see Acts 2018, c. 850) Additional state sales and**  
698 **use tax in certain counties and cities of historic significance; Historic Triangle Marketing Fund.**

699 A. For purposes of this section, "Historic Triangle" means all of the City of Williamsburg and the  
700 Counties of James City and York.

701 B. In addition to the sales tax imposed pursuant to §§ 58.1-603 and 58.1-603.1, there is hereby  
702 levied and imposed in the Historic Triangle a retail sales tax at the rate of one percent. ~~Such tax shall  
703 not be levied upon food purchased for human consumption and essential personal hygiene products, as  
704 such terms are defined in § 58.1-611.1.~~ Such tax shall be added to the rate of the state sales tax imposed  
705 pursuant to §§ 58.1-603 and 58.1-603.1 in each such county and city and shall be subject to all the  
706 provisions of this chapter and the rules and regulations published with respect thereto. No discount  
707 under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be administered  
708 and collected by the Tax Commissioner in the same manner and subject to the same penalties as  
709 provided for the state sales tax under § 58.1-603.

710 C. In addition to the use tax imposed pursuant to §§ 58.1-604 and 58.1-604.01, there is hereby levied  
711 and imposed in the Historic Triangle a retail use tax at the rate of one percent. ~~Such tax shall not be  
712 levied upon food purchased for human consumption and essential personal hygiene products, as such  
713 terms are defined in § 58.1-611.1.~~ Such tax shall be added to the rate of the state use tax imposed  
714 pursuant to §§ 58.1-604 and 58.1-604.01 in each such county and city and shall be subject to all the  
715 provisions of this chapter and the rules and regulations published with respect thereto. No discount  
716 under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be administered  
717 and collected by the Tax Commissioner in the same manner and subject to the same penalties as  
718 provided for the state use tax under § 58.1-604.

719 D. The revenue generated and collected pursuant to the tax authorized under this section, less the  
720 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller as follows:

721 1. Fifty percent of the revenues shall be deposited into the Historic Triangle Marketing Fund created  
722 pursuant to subsection E and used for the purposes set forth therein; and

723 2. Fifty percent of the revenues shall be deposited into a special fund hereby created on the books of  
724 the Comptroller under the name "Collections of Historic Triangle Sales Tax" and distributed to the  
725 locality in which the sales or use tax was collected. The revenues received by a locality pursuant to this  
726 subsection shall not be used to reduce the amount of other revenues appropriated by such locality to or  
727 for use by the Greater Williamsburg Chamber and Tourism Alliance below the amount provided in fiscal  
728 year 2018.

729 E. 1. There is hereby created in the state treasury a special nonreverting fund to be known as the  
730 Historic Triangle Marketing Fund, referred to in this section as "the Fund," to be managed and  
731 administered by the Tourism Council of the Greater Williamsburg Chamber and Tourism Alliance. The  
732 Fund shall be established on the books of the Comptroller. All revenues generated pursuant to this  
733 section shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the  
734 Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including  
735 interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the

736 Fund. Moneys in the Fund shall be used solely for the purposes of marketing, advertising, and  
737 promoting the Historic Triangle area as an overnight tourism destination, with the intent to attract  
738 visitors from a sufficient distance so as to require an overnight stay of at least one night, as set forth in  
739 this subsection. Expenditures and disbursements from the Fund shall be made by the State Treasurer on  
740 warrants issued by the Comptroller upon written request signed by the Secretary of Finance.

741 2. The Tourism Council of the Greater Williamsburg Chamber and Tourism Alliance (the Council)  
742 shall consist of members as follows: one member of the James City County Board of Supervisors, one  
743 member of the York County Board of Supervisors; one member of the Williamsburg City Council, one  
744 representative of the Colonial Williamsburg Foundation, one representative of the Jamestown-Yorktown  
745 Foundation, one representative of Busch Gardens Williamsburg, one representative of Historic  
746 Jamestowne, one representative of the Williamsburg Hotel and Motel Association, and one representative  
747 of the Williamsburg Area Restaurant Association. The Chief Executive Officer of the Virginia Tourism  
748 Alliance and the Chief Executive Officer of the Virginia Tourism Corporation shall serve as ex officio,  
749 non-voting members of the Council.

750 3. The Council shall establish the Historic Triangle Office of Marketing and Promotion (the Office)  
751 to administer a program of marketing, advertising, and promotion to attract visitors to the Historic  
752 Triangle area, as required by this subsection. The Council shall use moneys in the Fund to fund the pay  
753 for necessary expenses of the Office and to fund the activities of the Office. The Office shall be  
754 overseen by a professional with extensive experience in marketing or advertising and in the tourism  
755 industry. The Office shall be responsible for (i) developing and implementing, in consultation with the  
756 Council, long-term and short-term strategic plans for advertising and promoting the numerous facilities,  
757 venues, and attractions devoted to education, historic preservation, amusement, entertainment, and dining  
758 in the Historic Triangle as a cohesive and unified travel destination for local, national, and international  
759 travelers; (ii) assisting, upon request, with the coordination of cross-advertising and cross-marketing  
760 efforts between various tourism venues and destinations in the Historic Triangle region; (iii) identifying  
761 strategies for both increasing the number of overnight visitors to the region and increasing the average  
762 length of stay of tourists in the region; and (iv) performing any other function related to the promotion  
763 of the Historic Triangle region as may be identified by the Council.

764 4. The Council shall report annually on its long-term and short-term strategic plans and the  
765 implementation of such plans; marketing efforts; metrics regarding tourism in the Historic Triangle  
766 region; use of the funds in the Fund; and any other details relevant to the work of the Council and the  
767 Office. Such report shall be delivered no later than December 1 of each year to the managers or chief  
768 executive officers of the City of Williamsburg and the Counties of James City and York, and to the  
769 Chairmen of the House Committees on Finance and Appropriations and the Senate Committee on  
770 Finance and Appropriations.

771 **§ 58.1-604.01. (For contingent expiration dates, see Acts 2013, c. 766, and Acts 2020, c. 1235)**  
772 **Additional state use tax in certain counties and cities.**

773 A. In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in  
774 each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et  
775 seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more, as shown by  
776 the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and  
777 has a total transit ridership of not less than 15 million riders per year across all transit systems within  
778 the Planning District or (ii) as shown by the most recent United States Census meets the population  
779 criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in  
780 clause (i), a retail use tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant  
781 to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year  
782 in which all of the criteria have been met.

783 B. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed  
784 in each county and city located in Planning District 15 established pursuant to Chapter 42 (§ 15.2-4200  
785 et seq.) of Title 15.2 a retail use tax at the rate of 0.70 percent. In no case shall an additional use tax be  
786 imposed pursuant to both clause (ii) of subsection A and this subsection.

787 C. The tax imposed pursuant to subsections A and B shall not be levied upon food purchased for  
788 human consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1.  
789 Such tax shall be added to the rate of the state use tax imposed pursuant to § 58.1-604 in such county  
790 and city and shall be subject to all the provisions of this chapter and the rules and regulations published  
791 with respect thereto. No discount under § 58.1-622 shall be allowed for the tax described under this  
792 section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and  
793 subject to the same penalties as provided for the state use tax under § 58.1-604.

794 D. The revenue generated and collected pursuant to the tax authorized under this section, less the  
795 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds  
796 established by law. In the case of Planning District 8, the revenue generated and collected therein shall

797 be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue  
 798 generated and collected therein shall be deposited into the fund established in § 33.2-2600. In the case  
 799 of Planning District 15, the revenue generated and collected therein shall be deposited into the fund  
 800 established in § 33.2-3701. For any additional planning districts that may become subject to this section,  
 801 funds shall be established by appropriate legislation.

802 **§ 58.1-604.01. (For contingent effective date, see Acts 2020, c. 1235; for contingent expiration**  
 803 **date, see Acts 2013, c. 766) Additional state use tax in certain counties and cities.**

804 In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in each  
 805 county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of  
 806 Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more, as shown by the most  
 807 recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has a  
 808 total transit ridership of not less than 15 million riders per year across all transit systems within the  
 809 Planning District or (ii) as shown by the most recent United States Census meets the population criteria  
 810 set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i),  
 811 a retail use tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause  
 812 (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which  
 813 all of the criteria have been met. ~~Such tax shall not be levied upon food purchased for human~~  
 814 ~~consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1.~~ Such  
 815 tax shall be added to the rate of the state use tax imposed pursuant to § 58.1-604 in such county and  
 816 city and shall be subject to all the provisions of this chapter and the rules and regulations published with  
 817 respect thereto. No discount under § 58.1-622 shall be allowed for the tax described under this section.  
 818 Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject  
 819 to the same penalties as provided for the state use tax under § 58.1-604.

820 The revenue generated and collected pursuant to the tax authorized under this section, less the  
 821 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds  
 822 established by law. In the case of Planning District 8, the revenue generated and collected therein shall  
 823 be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue  
 824 generated and collected therein shall be deposited into the fund established in § 33.2-2600. For any  
 825 additional Planning Districts that may become subject to this section, funds shall be established by  
 826 appropriate legislation.

827 **§ 58.1-605.1. Additional local sales tax in certain localities; use of revenues for construction or**  
 828 **renovation of schools.**

829 A. 1. In addition to the sales tax authorized under § 58.1-605, a qualifying locality may levy a  
 830 general retail sales tax at a rate not to exceed one percent as determined by its governing body to  
 831 provide revenue solely for capital projects for the construction or renovation of schools in each such  
 832 locality. Such tax shall be added to the rates of the state and local sales tax imposed by this chapter and  
 833 shall be subject to all the provisions of this chapter and the rules and regulations published with respect  
 834 thereto. No discount under § 58.1-622 shall be allowed on this local sales tax.

835 2. Any tax imposed pursuant to this section shall expire (i) if the capital projects for the construction  
 836 or renovation of schools are to be financed by bonds or loans, on the date by which such bonds or loans  
 837 shall be repaid or (ii) if the capital projects for the construction or renovation of schools are not to be  
 838 financed by bonds or loans, on a date chosen by the governing body and specified in any resolution  
 839 passed pursuant to the provisions of subdivision B 1. Such expiration date shall not be more than 20  
 840 years after the date of the resolution passed pursuant to the provisions of subdivision B 1.

841 B. 1. This tax may be levied only if the tax is approved in a referendum within the qualifying  
 842 locality held in accordance with § 24.2-684 and initiated by a resolution of the local governing body.  
 843 Such resolution shall state (i) if the capital projects for the construction or renovation of schools are to  
 844 be financed by bonds or loans, the date by which such bonds or loans shall be repaid or (ii) if the  
 845 capital projects for the construction or renovation of schools are not to be financed by bonds or loans, a  
 846 specified date on which the sales tax shall expire.

847 2. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general  
 848 circulation in the qualifying locality once a week for three consecutive weeks prior to the election. The  
 849 question on the ballot for the referendum shall include language stating (i) that the revenues from the  
 850 sales tax shall be used solely for capital projects for the construction or renovation of schools and (ii)  
 851 the date on which the sales tax shall expire.

852 C. The governing body of the qualifying locality, if it elects to impose a local sales tax under this  
 853 section after approval at a referendum as provided in subsection B shall do so by the adoption of an  
 854 ordinance stating its purpose and referring to this section and providing that such ordinance shall be  
 855 effective on the first day of a month at least 120 days after its adoption. Such ordinance shall state the  
 856 date on which the sales tax shall expire. A certified copy of such ordinance shall be forwarded to the  
 857 Tax Commissioner so that it will be received within five days after its adoption.

858 D. Any local sales tax levied under this section shall be administered and collected by the Tax

859 Commissioner in the same manner and subject to the same exemptions and penalties as provided for the  
860 state sales tax; however, the local sales tax levied under this section shall not be levied on food  
861 purchased for human consumption or essential personal hygiene products, as such terms are defined in  
862 § 58.1-611.1.

863 E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid  
864 into the state treasury to the credit of a special fund that is hereby created on the Comptroller's books  
865 for each qualifying locality under the name "Collections of Additional Local Sales Taxes in \_\_\_\_  
866 (INSERT NAME OF THE QUALIFYING LOCALITY)." Each fund shall be administered as provided  
867 in § 58.1-605. A separate fund shall be created for each qualifying locality. Only local sales tax moneys  
868 collected in that qualifying locality shall be deposited in that locality's fund.

869 F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in  
870 any month for the preceding month, the Comptroller shall draw his warrant on the State Treasurer in the  
871 proper amount in favor of each qualifying locality, and such payments shall be charged to the account  
872 of the qualifying locality under its special fund created by this section. If errors are made in any such  
873 payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers or to some  
874 other fact, the errors shall be corrected and adjustments made in the payments for the next two months  
875 as follows: one-half of the total adjustment shall be included in the payment for each of the next two  
876 months. In addition, the payment shall include a refund of amounts erroneously not paid to each  
877 qualifying locality and not previously refunded during the three years preceding the discovery of the  
878 error. A correction and adjustment in payments described in this subsection due to the misallocation of  
879 funds by the dealer shall be made within three years of the date of the payment error.

880 G. The revenues from this tax shall be used solely for capital projects for new construction or major  
881 renovation of schools in the qualifying locality, including bond and loan financing costs related to such  
882 construction or renovation.

883 **§ 58.1-606.1. Additional local use tax in certain localities; use of revenues for construction or**  
884 **renovation of schools.**

885 A. 1. The governing body of a qualifying locality may levy a use tax at the rate of such sales tax  
886 under § 58.1-605.1 to provide revenue for capital projects for the construction or renovation of schools  
887 in such locality. Such tax shall be added to the rates of the state and local use tax imposed by this  
888 chapter and shall be subject to all the provisions of this chapter, and all amendments thereof, and the  
889 rules and regulations published with respect thereto, except that no discount under § 58.1-622 shall be  
890 allowed on a local use tax.

891 2. Any tax imposed pursuant to this section shall expire (i) if the capital projects for the construction  
892 or renovation of schools are to be financed by bonds or loans, on the date by which such bonds or loans  
893 shall be repaid or (ii) if the capital projects for the construction or renovation of schools are not to be  
894 financed by bonds or loans, on a date chosen by the governing body and specified in any resolution  
895 passed pursuant to the provisions of subsection B. Such expiration date shall not be more than 20 years  
896 after the date of the resolution passed pursuant to the provisions of subsection B.

897 B. The governing body of the qualifying locality, if it elects to impose a local use tax under this  
898 section may do so only if it has previously imposed the local sales tax authorized by § 58.1-605.1, by  
899 the adoption of an ordinance stating its purpose and referring to this section and providing that the local  
900 use tax shall become effective on the first day of a month at least 120 days after its adoption. Such  
901 ordinance shall state the date on which the use tax shall expire. A certified copy of such ordinance shall  
902 be forwarded to the Tax Commissioner so that it will be received within five days after its adoption.

903 C. Any local use tax levied under this section shall be administered and collected by the Tax  
904 Commissioner in the same manner and subject to the same exemptions and penalties as provided for the  
905 state use tax; however, the local use tax levied under this section shall not be levied on food purchased  
906 for human consumption or essential personal hygiene products, as such terms are defined in  
907 § 58.1-611.1.

908 D. The local use tax authorized by this section shall not apply to transactions to which the sales tax  
909 applies, the situs of which for state and local sales tax purposes is the locality of location of each place  
910 of business of every dealer paying the tax to the Commonwealth without regard to the locality of  
911 possible use by the purchasers. However, the local use tax authorized by this section shall apply to  
912 tangible personal property purchased outside the Commonwealth for use or consumption within the  
913 locality imposing the local use tax, or stored within the locality for use or consumption, where the  
914 property would have been subject to the sales tax if it had been purchased within the Commonwealth.  
915 The local use tax shall also apply to leases or rentals of tangible personal property where the place of  
916 business of the lessor is outside the Commonwealth and such leases or rentals are subject to the state  
917 tax. Moreover, the local use tax shall apply in all cases in which the state use tax applies.

918 E. Out-of-state dealers who hold certificates of registration to collect the use tax from their customers  
919 for remittance to the Commonwealth shall, to the extent reasonably practicable, in filing their monthly

920 use tax returns with the Tax Commissioner, break down their shipments into the Commonwealth by  
 921 counties and cities so as to show the county or city of destination. If, however, the out-of-state dealer is  
 922 unable accurately to assign any shipment to a particular county or city, the local use tax on the tangible  
 923 personal property involved shall be remitted to the Commonwealth by such dealer without attempting to  
 924 assign the shipment to any county or city.

925 F. Local use tax revenue shall be deposited in the special fund established pursuant to subsection E  
 926 of § 58.1-605.1. The Comptroller shall distribute the revenue to the qualifying locality.

927 G. All revenue from this local use tax revenue shall be used solely for capital projects for new  
 928 construction or major renovation of schools in the qualifying locality, including bond and loan financing  
 929 costs related to such construction or renovation.

930 **§ 58.1-609.5. Service exemptions.**

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

933 1. ~~Professional, insurance, or personal service transactions which involve sales as inconsequential~~  
 934 ~~elements for which no separate charges are made; services rendered by repairmen for which a separate~~  
 935 ~~charge is made; and services not involving an exchange of tangible personal property which provide~~  
 936 ~~access to or use of the Internet and any other related electronic communication service, including~~  
 937 ~~software, data, content and other information services delivered electronically via the Internet.~~

938 2. ~~An amount separately charged for labor or services rendered in installing, applying, remodeling, or~~  
 939 ~~repairing property sold or rented Health care services. For purposes of this section, "health care~~  
 940 ~~services" means services that must be provided by or under the direction of persons who must be~~  
 941 ~~licensed or certified by a board within the Department of Health Professions, pursuant to Subtitle III~~  
 942 ~~(§ 54.1-2400 et seq.) of Title 54.1.~~

943 2. ~~Professional services, including education or training, legal, financial, accounting and tax~~  
 944 ~~preparation, real estate, engineering, architectural, or insurance services.~~

945 3. ~~Services performed by a person who does not receive more than \$2,500 per year in gross receipts~~  
 946 ~~for performance of such services.~~

947 4. ~~Services that provide Internet access service as that term is defined in § 58.1-647.~~

948 5. ~~Transportation charges separately stated.~~

949 4. ~~Separately stated charges for alterations to apparel, clothing and garments.~~

950 5. 6. ~~Charges for gift wrapping services performed by a nonprofit organization.~~

951 6. ~~An amount separately charged for labor or services rendered in connection with the modification~~  
 952 ~~of prewritten programs as defined in § 58.1-602.~~

953 7. ~~Custom programs as defined in § 58.1-602.~~

954 8. 7. ~~The sale or charges for any room or rooms, lodgings, or accommodations furnished to transients~~  
 955 ~~for more than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds,~~  
 956 ~~club, or any other place in which rooms, lodging, space or accommodations are regularly furnished to~~  
 957 ~~transients for a consideration.~~

958 9. ~~Beginning January 1, 1996, maintenance contracts, the terms of which provide for both repair or~~  
 959 ~~replacement parts and repair labor, shall be subject to tax upon one-half of the total charge for such~~  
 960 ~~contracts only. Persons providing maintenance pursuant to such a contract may purchase repair or~~  
 961 ~~replacement parts under a resale certificate of exemption. Warranty plans issued by an insurance~~  
 962 ~~company, which constitute insurance transactions, are subject to the provisions of subdivision 1 above.~~

963 8. ~~Residential cleaning, home repair or maintenance, or landscaping services that are purchased by~~  
 964 ~~a homeowners' association or similar entity or by a landlord for the benefit of his tenant.~~

965 **§ 58.1-609.11. Exemptions for nonprofit entities.**

966 A. For purposes of this section, "nonprofit organization" or "nonprofit entity" means an entity that  
 967 meets the requirements of subsection D. "Nonprofit organization" or "nonprofit entity" includes a single  
 968 member limited liability company whose sole member is a nonprofit organization.

969 B. Any nonprofit organization that holds a valid certificate of exemption from the Department of  
 970 Taxation, or any nonprofit church that holds a valid self-executing certificate of exemption, that exempts  
 971 it from collecting or paying state and local retail sales or use taxes as of June 30, 2003, pursuant to  
 972 § 58.1-609.4, 58.1-609.7, 58.1-609.8, 58.1-609.9, or 58.1-609.10, as such sections are in effect on June  
 973 30, 2003, shall remain exempt from the collection or payment of such taxes under the same terms and  
 974 conditions as provided under such sections as such sections existed on June 30, 2003, until: (i) July 1,  
 975 2007, for such entities that were exempt under § 58.1-609.4; (ii) July 1, 2008, for such entities that  
 976 were exempt under § 58.1-609.7; (iii) July 1, 2004, for the first one-half of such entities that were  
 977 exempt under § 58.1-609.8, except churches, which will remain exempt under the same criteria and  
 978 procedures in effect for churches on June 30, 2003; (iv) July 1, 2005, for the second one-half of such  
 979 entities that were exempt under § 58.1-609.8; and (v) July 1, 2006, for such entities that were exempt  
 980 under § 58.1-609.9 or under § 58.1-609.10. At the end of the applicable period of such exemptions, to  
 981 maintain or renew an exemption for the period of time set forth in subsection G, each entity must

982 follow the procedures set forth in subsection C and meet the criteria set forth in subsection D. Provided,  
 983 however, that any entity that was exempt from collecting sales and use tax shall continue to be exempt  
 984 from such collection, and any entity that was exempt from paying sales and use tax for the purchase of  
 985 services, as of June 30, 2003, shall continue to be exempt from such payment, provided that it follows  
 986 the other procedures set forth in subsection C and meets the criteria set forth in subsection D. Provided  
 987 further, however, that an educational institution doing business in the Commonwealth which provides a  
 988 face-to-face educational experience in American government and was exempt pursuant to subdivision 4  
 989 of § 58.1-609.4 from paying sales and use tax for the purchase of services, as of June 30, 2003, shall  
 990 continue to be exempt from such payment, provided that it follows the other procedures set forth in  
 991 subsection C and meets the criteria set forth in subsection D.

992 C. 1. On and after July 1, 2004, in addition to the organizations described in subsection B, and  
 993 except as restricted in subdivision 2, the tax imposed by this chapter or pursuant to the authority granted  
 994 in §§ 58.1-605 and 58.1-606 shall not apply to purchases of *taxable services* or tangible personal  
 995 property for use or consumption by any nonprofit entity that, pursuant to this section, (i) files an  
 996 appropriate application with the Department of Taxation, (ii) meets the applicable criteria, and (iii) is  
 997 issued a certificate of exemption from the Department of Taxation for the period of time covered by the  
 998 certificate.

999 2. If the entity that is exempt under this section is exempt from federal income tax under  
 1000 § 501(c)(19) of the Internal Revenue Code, or has annual gross receipts of less than \$5,000 and is  
 1001 organized for at least one of the purposes set forth in § 501(c)(19) of the Internal Revenue Code, then  
 1002 the exemption under this section for such entity shall not apply to purchases of *taxable services* or  
 1003 tangible personal property that are used primarily (i) for social and recreational activities for members or  
 1004 (ii) for providing insurance benefits to members or members' dependents.

1005 D. To qualify for the exemption under subsection C, a nonprofit entity must meet the applicable  
 1006 criteria under this subsection as follows:

1007 1. a. The entity is exempt from federal income taxation (i) under § 501(c)(3) of the Internal Revenue  
 1008 Code; (ii) under § 501(c)(4) of the Internal Revenue Code and is organized for a charitable purpose; or  
 1009 (iii) under § 501(c)(19) of the Internal Revenue Code; or

1010 b. The entity has annual gross receipts of less than \$5,000, and the entity is organized for at least  
 1011 one of the purposes set forth in § 501(c)(3) of the Internal Revenue Code, one of the charitable  
 1012 purposes set forth in § 501(c)(4) of the Internal Revenue Code, or one of the purposes set forth in  
 1013 § 501(c)(19) of the Internal Revenue Code; and

1014 2. The entity is in compliance with all applicable state solicitation laws and, where applicable,  
 1015 provides appropriate verification of such compliance; and

1016 3. The entity's annual general administrative costs, including salaries and fundraising, relative to its  
 1017 annual gross revenue, under generally accepted accounting principles, is not greater than 40 percent; and

1018 4. If the entity's gross annual revenue was at least \$750,000 in the previous year, then the entity  
 1019 must provide a financial review performed by an independent certified public accountant. However, for  
 1020 any entity with gross annual revenue of at least \$1 million in the previous year, the Department may  
 1021 require that the entity provide a financial audit performed by an independent certified public accountant.  
 1022 If the Department specifically requires an entity with gross annual revenue of at least \$1 million in the  
 1023 previous year to provide a financial audit performed by an independent certified public accountant, then  
 1024 the entity shall provide such audit in order to qualify for the exemption under this section, which audit  
 1025 shall be in lieu of the financial review; and

1026 5. If the entity filed a federal 990 or 990 EZ tax form, or the successor forms to such forms, with  
 1027 the Internal Revenue Service, then it must provide a copy of such form to the Department of Taxation;  
 1028 and

1029 6. If the entity did not file a federal 990 or 990 EZ tax form, or the successor forms to such forms,  
 1030 with the Internal Revenue Service, then the entity must provide the following information:

1031 a. A list of the Board of Directors or other responsible agents of the entity, composed of at least two  
 1032 individuals, with names and addresses where the individuals physically can be found; and

1033 b. The location where the financial records of the entity are available for public inspection.

1034 E. On and after July 1, 2004, in addition to the criteria set forth in subsection D, the Department of  
 1035 Taxation shall ask each entity for the total taxable purchases made in the preceding year, unless such  
 1036 records are not available through no fault of the entity. If the records are not available through no fault  
 1037 of the entity, then the entity must provide such information to the Department the following year. No  
 1038 information provided pursuant to this subsection (except the failure to provide available information)  
 1039 shall be a basis for the Department of Taxation to refuse to exempt an entity.

1040 F. Any entity that is determined under subsections C, D, and E by the Department of Taxation to be  
 1041 exempt from paying sales and use tax shall also be exempt from collecting sales and use tax, at its  
 1042 election, if (i) the entity is within the same class of organization of any entity that was exempt from

1043 collecting sales and use tax on June 30, 2003, or (ii) the entity is organized exclusively to foster,  
 1044 sponsor, and promote physical education, athletic programs, and contests for youths in the  
 1045 Commonwealth.

1046 G. The duration of each exemption granted by the Department of Taxation shall be no less than five  
 1047 years and no greater than seven years. During the period of such exemption, the failure of an exempt  
 1048 entity to maintain compliance with the applicable criteria set forth in subsection D shall constitute  
 1049 grounds for revocation of the exemption by the Department. At the end of the period of such exemption,  
 1050 to maintain or renew the exemption, each entity must provide the Department of Taxation the same  
 1051 information as required upon initial exemption and meet the same criteria.

1052 H. For purposes of this section, the Department of Taxation and the Department of Agriculture and  
 1053 Consumer Services shall be allowed to share information when necessary to supplement the information  
 1054 required.

1055 **§ 58.1-611.1. Rate of tax on sales of food purchased for human consumption and essential**  
 1056 **personal hygiene products.**

1057 A. The tax imposed by §§ 58.1-603 and 58.1-604 on food purchased for human consumption and  
 1058 essential personal hygiene products shall be one and one-half percent of the gross sales price. The  
 1059 revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-half  
 1060 percent shall be distributed as provided in subsection A of § 58.1-638 and (ii) the revenue from the tax  
 1061 at the rate of one percent shall be distributed as provided in subsections B, C and D of § 58.1-638.

1062 B. The provisions of this section shall not affect the imposition of tax on food purchased for human  
 1063 consumption and essential personal hygiene products pursuant to §§ 58.1-605 and 58.1-606 *On and after*  
 1064 *July 1, 2022, no tax shall be imposed under this chapter, or pursuant to any authority granted under*  
 1065 *this chapter, on food purchased for human consumption or essential personal hygiene products.*

1066 C. B. 1. As used in this section, "food purchased for human consumption" has the same meaning as  
 1067 "food" defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations  
 1068 adopted pursuant to that Act, except it shall not include seeds and plants which produce food for human  
 1069 consumption. For the purpose of this section, "food purchased for human consumption" shall not include  
 1070 food sold by any retail establishment where the gross receipts derived from the sale of food prepared by  
 1071 such retail establishment for immediate consumption on or off the premises of the retail establishment  
 1072 constitutes more than 80 percent of the total gross receipts of that retail establishment, including but not  
 1073 limited to motor fuel purchases, regardless of whether such prepared food is consumed on the premises  
 1074 of that retail establishment. For purposes of this section, "retail establishment" means each place of  
 1075 business for which any "dealer," as defined in § 58.1-612, is required to apply for and receive a  
 1076 certificate of registration pursuant to § 58.1-613.

1077 2. As used in this section, "essential personal hygiene products" means (i) nondurable incontinence  
 1078 products such as diapers, disposable undergarments, pads, and bed sheets and (ii) menstrual cups and  
 1079 pads, pantyliners, sanitary napkins, tampons, and other products used to absorb or contain menstrual  
 1080 flow. "Essential personal hygiene products" does not include any item that is otherwise exempt pursuant  
 1081 to this chapter.

1082 **§ 58.1-612. Tax collectible from dealers; "dealer" defined; jurisdiction.**

1083 A. The tax levied by §§ 58.1-603 and 58.1-604 shall be collectible from all persons that are dealers,  
 1084 as defined in this section, and that have sufficient contact with the Commonwealth to qualify under (i)  
 1085 subsections B and C or (ii) subsections B and D.

1086 B. As used in this chapter, "dealer" includes every person that:

1087 1. Manufactures or produces *taxable services or* tangible personal property for sale at retail, for use,  
 1088 consumption, or distribution, or for storage to be used or consumed in this Commonwealth;

1089 2. Imports or causes to be imported into this Commonwealth *taxable services or* tangible personal  
 1090 property from any state or foreign country, for sale at retail, for use, consumption, or distribution, or for  
 1091 storage to be used or consumed in this Commonwealth;

1092 3. Sells at retail, or that offers for sale at retail, or that has in its possession for sale at retail, or for  
 1093 use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth, *taxable*  
 1094 *services or* tangible personal property;

1095 4. Has sold at retail, used, consumed, distributed, *furnished*, or stored for use or consumption in this  
 1096 Commonwealth, *taxable services or* tangible personal property and that cannot prove that the tax levied  
 1097 by this chapter has been paid on the sale at retail, the use, consumption, distribution, or storage of such  
 1098 *taxable services or* tangible personal property;

1099 5. Leases or rents tangible personal property for a consideration, permitting the use or possession of  
 1100 such property without transferring title thereto;

1101 6. Is the lessee or rentee of tangible personal property and that pays to the owner of such property a  
 1102 consideration for the use or possession of such property without acquiring title thereto;

1103 7. As a representative, agent, or solicitor, of an out-of-state principal, solicits, receives and accepts  
 1104 orders from persons in this Commonwealth for future delivery and whose principal refuses to register as

1105 a dealer under § 58.1-613; or  
 1106 8. Becomes liable to and owes this Commonwealth any amount of tax imposed by this chapter,  
 1107 whether it holds, or is required to hold, a certificate of registration under § 58.1-613.  
 1108 C. A dealer shall be deemed to have sufficient activity within the Commonwealth to require  
 1109 registration under § 58.1-613 if it:  
 1110 1. Maintains or has within this Commonwealth, directly or through an agent or subsidiary, an office,  
 1111 warehouse, or place of business of any nature;  
 1112 2. Solicits business in this Commonwealth by employees, independent contractors, agents or other  
 1113 representatives;  
 1114 3. Advertises in newspapers or other periodicals printed and published within this Commonwealth, on  
 1115 billboards or posters located in this Commonwealth, or through materials distributed in this  
 1116 Commonwealth by means other than the United States mail;  
 1117 4. Makes regular deliveries of tangible personal property within this Commonwealth by means other  
 1118 than common carrier. A person shall be deemed to be making regular deliveries hereunder if vehicles  
 1119 other than those operated by a common carrier enter this Commonwealth more than 12 times during a  
 1120 calendar year to deliver goods sold by him;  
 1121 5. Solicits business in this Commonwealth on a continuous, regular, seasonal, or systematic basis by  
 1122 means of advertising that is broadcast or relayed from a transmitter within this Commonwealth or  
 1123 distributed from a location within this Commonwealth;  
 1124 6. Solicits business in this Commonwealth by mail, if the solicitations are continuous, regular,  
 1125 seasonal, or systematic and if the dealer benefits from any banking, financing, debt collection, or  
 1126 marketing activities occurring in this Commonwealth or benefits from the location in this  
 1127 Commonwealth of authorized installation, servicing, or repair facilities;  
 1128 7. Is owned or controlled by the same interests which own or control a business located within this  
 1129 Commonwealth;  
 1130 8. Has a franchisee or licensee operating under the same trade name in this Commonwealth if the  
 1131 franchisee or licensee is required to obtain a certificate of registration under § 58.1-613;  
 1132 9. Owns tangible personal property that is for sale located in this Commonwealth, or that is rented or  
 1133 leased to a consumer in this Commonwealth, or offers tangible personal property, on approval, to  
 1134 consumers in this Commonwealth;  
 1135 10. Receives more than \$100,000 in gross revenue, or other minimum amount as may be required by  
 1136 federal law, from retail sales in the Commonwealth in the previous or current calendar year, provided  
 1137 that in determining the amount of a dealer's gross revenues, the sales made by all commonly controlled  
 1138 persons as defined in subsection D shall be aggregated; or  
 1139 11. Engages in 200 or more separate retail sales transactions, or other minimum amount as may be  
 1140 required by federal law, in the Commonwealth in the previous or current calendar year, provided that in  
 1141 determining the total number of a dealer's retail sales transactions, the sales made by all commonly  
 1142 controlled persons as defined in subsection D shall be aggregated.  
 1143 D. A dealer is presumed to have sufficient activity within the Commonwealth to require registration  
 1144 under § 58.1-613 (unless the presumption is rebutted as provided herein) if any commonly controlled  
 1145 person maintains a distribution center, warehouse, fulfillment center, office, or similar location within the  
 1146 Commonwealth that facilitates the delivery of tangible personal property sold by the dealer to its  
 1147 customers. The presumption in this subsection may be rebutted by demonstrating that the activities  
 1148 conducted by the commonly controlled person in the Commonwealth are not significantly associated  
 1149 with the dealer's ability to establish or maintain a market in the Commonwealth for the dealer's sales.  
 1150 For purposes of this subsection, a "commonly controlled person" means any person that is a member of  
 1151 the same "controlled group of corporations," as defined in § 1563(a) of the Internal Revenue Code of  
 1152 1954, as amended or renumbered, as the dealer or any other entity that, notwithstanding its form of  
 1153 organization, bears the same ownership relationship to the dealer as a corporation that is a member of  
 1154 the same "controlled group of corporations," as defined in § 1563(a) of the Internal Revenue Code of  
 1155 1954, as amended or renumbered.  
 1156 E. Notwithstanding any other provision of this section, the following shall not be considered to  
 1157 determine whether a person that has contracted with a commercial printer for printing in the  
 1158 Commonwealth is a "dealer" and whether such person has sufficient contact with the Commonwealth to  
 1159 be required to register under § 58.1-613:  
 1160 1. The ownership or leasing by that person of tangible or intangible property located at the Virginia  
 1161 premises of the commercial printer which is used solely in connection with the printing contract with the  
 1162 person;  
 1163 2. The sale by that person of property of any kind printed at and shipped or distributed from the  
 1164 Virginia premises of the commercial printer;  
 1165 3. Activities in connection with the printing contract with the person performed by or on behalf of

1166 that person at the Virginia premises of the commercial printer; and

1167 4. Activities in connection with the printing contract with the person performed by the commercial  
1168 printer within Virginia for or on behalf of that person.

1169 F. In addition to the jurisdictional standards contained in subsections C and D, nothing contained in  
1170 this chapter other than in subsection E shall limit any authority that this Commonwealth may enjoy  
1171 under the provisions of federal law or an opinion of the United States Supreme Court to require the  
1172 collection of sales and use taxes by any dealer that regularly or systematically solicits sales within this  
1173 Commonwealth. Furthermore, nothing contained in subsection C shall require any broadcaster, printer,  
1174 outdoor advertising firm, advertising distributor, or publisher which broadcasts, publishes, or displays or  
1175 distributes paid commercial advertising in this Commonwealth which is intended to be disseminated  
1176 primarily to consumers located in this Commonwealth to report or impose any liability to pay any tax  
1177 imposed under this chapter solely because such broadcaster, printer, outdoor advertising firm, advertising  
1178 distributor, or publisher accepted such advertising contracts from out-of-state advertisers or sellers.

1179 **§ 58.1-623. Sales or leases presumed subject to tax; exemption certificates.**

1180 A. All sales or leases are subject to the tax until the contrary is established. The burden of proving  
1181 that a sale, or distribution, of *taxable services or tangible personal property* or the lease, or storage of  
1182 tangible personal property is not taxable is upon the dealer unless he takes from the taxpayer a  
1183 certificate to the effect that the property is exempt under this chapter. However, the sale or distribution  
1184 of cigarettes shall be subject to the provisions of § 58.1-623.2 and require a cigarette exemption  
1185 certificate issued pursuant to § 58.1-623.2.

1186 B. The certificate mentioned in this section shall relieve the person who takes such certificate from  
1187 any liability for the payment or collection of the tax, except upon notice from the Tax Commissioner  
1188 that such certificate is no longer acceptable. Such certificate shall be signed by and bear the name and  
1189 address of the taxpayer; shall indicate the number of the certificate of registration, if any, issued to the  
1190 taxpayer; shall indicate the general character of the *taxable service or tangible personal property* sold,  
1191 distributed, leased, or stored, or to be sold, distributed, leased, or stored under a blanket exemption  
1192 certificate; and shall be substantially in such form as the Tax Commissioner may prescribe. If an  
1193 exemption pertains to a nonprofit organization, other than a nonprofit church, that has qualified for a  
1194 sales and use tax exemption under § 58.1-609.11, the exemption certificate shall be valid until the  
1195 scheduled expiration date stated on the exemption certificate.

1196 C. If a taxpayer who gives a certificate under this section makes any use of the *taxable service or*  
1197 *tangible personal property* other than an exempt use or retention, demonstration, or display while  
1198 holding the property for resale, distribution, or lease in the regular course of business, such use shall be  
1199 deemed a taxable sale by the taxpayer as of the time the property or service is first used by him, and  
1200 the cost of the property or service to him shall be deemed the sales price of such retail sale. If the sole  
1201 use of the property or service other than retention, demonstration, or display in the regular course of  
1202 business is the rental of the property or service while holding it for sale, distribution, or lease, the  
1203 taxpayer may elect to pay the tax on the amount of the rental charged, rather than the cost of the  
1204 property or service to him.

1205 D. If a taxpayer gives a certificate under this section with respect to the purchase of fungible goods  
1206 and thereafter commingles these goods with other fungible goods not so purchased, but of such  
1207 similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales  
1208 or distributions from the mass of commingled goods shall be deemed to be sales or distributions of the  
1209 goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so  
1210 commingled has been sold or distributed.

1211 E. If a taxpayer fails to give the dealer at the time of purchase an exemption certificate previously  
1212 issued by the Department, no interest shall be paid on a subsequent refund claim for any period prior to  
1213 the date the taxpayer makes a complete refund claim with the Department. This subsection shall not  
1214 apply to transactions exempted under self-executing certificates of exemption not issued to a specific  
1215 taxpayer by the Department.

1216 **§ 58.1-647. Definitions.**

1217 Terms used in this chapter shall have the same meanings as those used in Chapter 6 of this title  
1218 (§ 58.1-600 et seq.), unless defined otherwise, as follows:

1219 "Cable service" means the one-way transmission to subscribers of (i) video programming as defined  
1220 in 47 U.S.C. § 522 (20) 522(20) or (ii) other programming service, and subscriber interaction, if any,  
1221 which is required for the selection of such video programming or other programming service. Cable  
1222 service does not include any video programming provided by a commercial mobile service provider as  
1223 defined in 47 U.S.C. § 332 (d) 332(d) and any direct-to-home satellite service as defined in 47 U.S.C. §  
1224 303 (v) 303(v).

1225 "Call-by-call basis" means any method of charging for telecommunications services where the price  
1226 is measured by individual calls.

1227 "Coin-operated communications service" means a communications service paid for by means of

1228 inserting coins in a coin-operated telephone.

1229 "Communications services" means the electronic transmission, conveyance, or routing of voice, data,  
1230 audio, video, or any other information or signals, including cable services, *and any other service*  
1231 *utilizing any communications infrastructure, including international calling services, extended call area*  
1232 *services, and Internet application-based services*, to a point or between or among points, by or through  
1233 any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence  
1234 or hereafter devised, regardless of the protocol used for the transmission or conveyance. ~~The term~~  
1235 *"Communications services"* includes, but is not limited to, (i) the connection, movement, change, or  
1236 termination of communications services; (ii) detailed billing of communications services; (iii) sale of  
1237 directory listings in connection with a communications service; (iv) central office and custom calling  
1238 features; (v) voice mail and other messaging services; ~~and~~ (vi) directory assistance; (vii) *prepaid calling*  
1239 *services; and (viii) digital subscription services. With the exception of digital subscription services,*  
1240 *"communications services" applies to any service described or listed in this definition, regardless of*  
1241 *whether the customer is billed for such service on the basis of a subscription charge, a periodic charge,*  
1242 *or a charge for actual usage, including such a fee for the use of an Internet-based application,*  
1243 *excluding the original cost of purchasing the application.*

1244 "Communications services provider" means every person who provides communications services to  
1245 customers in the Commonwealth and is or should be registered with the Department as a provider.

1246 "Cost price" means the actual cost of the purchased communications service computed in the same  
1247 manner as the sales price.

1248 "Customer" means the person who contracts with the seller of communications services. If the person  
1249 who utilizes the communications services is not the contracting party, the person who utilizes the  
1250 services on his own behalf or on behalf of an entity is the customer of such service. "Customer" does  
1251 not include a reseller of communications services or the mobile communications services of a serving  
1252 carrier under an agreement to serve the customer outside the communications service provider's licensed  
1253 service area.

1254 "Customer channel termination point" means the location where the customer either inputs or  
1255 receives the private communications service.

1256 *"Digital subscription service" means a service, including audio and visual streaming services, which*  
1257 *for a fee allows the user to access and use software, reading materials, or other digital data or*  
1258 *applications for a defined period of time, and which products the user does not own or have permanent*  
1259 *access to outside of such period of time.*

1260 "Information service" means the offering of a capability for generating, acquiring, storing,  
1261 transforming, processing, retrieving, using, or making available information via communications services  
1262 for purposes other than the electronic transmission, conveyance, or routing.

1263 "Internet access service" means a service that enables users to access content, information, electronic  
1264 mail, or other services offered over the Internet, and may also include access to proprietary content,  
1265 information, and other services as part of a package of services offered to users. "Internet access  
1266 service" does not include telecommunications services, except to the extent telecommunications services  
1267 are purchased, used, or sold by a provider of Internet access to provide Internet access.

1268 "Place of primary use" means the street address representative of where the customer's use of the  
1269 communications services primarily occurs, which must be the residential street address or the primary  
1270 business street address of the customer. In the case of mobile communications services, the place of  
1271 primary use shall be within the licensed service area of the home service provider.

1272 "Postpaid calling service" means the communications service obtained by making a payment on a  
1273 call-by-call basis either through the use of a credit card or payment mechanism such as a bank card,  
1274 travel card, debit card, or by a charge made to a telephone number that is not associated with the  
1275 origination or termination of the communications service.

1276 "Prepaid calling service" means the right to access exclusively communications services, which must  
1277 be paid for in advance and which enables the origination of calls using an access number or  
1278 authorization code, whether manually or electronically dialed, ~~and that is sold in predetermined units of~~  
1279 ~~dollars that decrease in number with use.~~

1280 "Private communications service" means a communications service that entitles the customer or user  
1281 to exclusive or priority use of a communications channel or group of channels between or among  
1282 channel termination points, regardless of the manner in which such channel or channels are connected,  
1283 and includes switching capacity, extension lines, stations, and any other associated services that are  
1284 provided in connection with the use of such channel or channels.

1285 "Retail sale" or a "sale at retail" means a sale of communications services for any purpose other than  
1286 for resale or for use as a component part of or for the integration into communications services to be  
1287 resold in the ordinary course of business.

1288 "Sales price" means the total amount charged in money or other consideration by a communications

1289 services provider for the sale of the right or privilege of using communications services in the  
 1290 Commonwealth, including any property or other services that are part of the sale. The sales price of  
 1291 communications services shall not be reduced by any separately identified components of the charge that  
 1292 constitute expenses of the communications services provider, including but not limited to, sales taxes on  
 1293 goods or services purchased by the communications services provider, property taxes, taxes measured by  
 1294 net income, and universal-service fund fees.

1295 "Service address" means, (i) the location of the telecommunications equipment to which a customer's  
 1296 call is charged and from which the call originates or terminates, regardless of where the call is billed or  
 1297 paid. If the location is not known in clause (i), "service address" means (ii) the origination point of the  
 1298 signal of the telecommunications system or in information received by the seller from its service  
 1299 provider, where the system used to transport such signals is not that of the seller. If the location is not  
 1300 known in clauses (i) and (ii), the service address means (iii) the location of the customer's place of  
 1301 primary use.

1302 "*Streaming service*" means a method of transmitting or receiving video and audio data over a  
 1303 computer network as a steady, continuous flow, allowing playback to proceed while subsequent data is  
 1304 being received.

1305 **§ 58.1-648. Imposition of sales tax; exemptions.**

1306 A. Beginning January 1, 2007, there is levied and imposed, in addition to all other taxes and fees of  
 1307 every kind imposed by law, a sales or use tax on the customers of communications services in the  
 1308 amount of ~~5%~~ *five percent* of the sales price of each communications service that is sourced to the  
 1309 Commonwealth in accordance with § 58.1-649.

1310 B. The sales price on which the tax is levied shall not include charges for any of the following: (i)  
 1311 an excise, sales, or similar tax levied by the United States or any state or local government on the  
 1312 purchase, sale, use, or consumption of any communications service that is permitted or required to be  
 1313 added to the sales price of such service, if the tax is stated separately; (ii) a fee or assessment levied by  
 1314 the United States or any state or local government, including but not limited to, regulatory fees and  
 1315 emergency telephone surcharges, that is required to be added to the price of service if the fee or  
 1316 assessment is separately stated; (iii) coin-operated communications services; (iv) ~~sale or recharge of a~~  
 1317 ~~prepaid calling service~~; (v) provision of air-to-ground radiotelephone services, as that term is defined in  
 1318 47 C.F.R. § 22.99; (vi) (v) a communications services provider's internal use of communications  
 1319 services in connection with its business of providing communications services; (vii) (vi) charges for  
 1320 property or other services that are not part of the sale of communications services, if the charges are  
 1321 stated separately from the charges for communications services; (viii) (vii) sales for resale; (ix) (viii)  
 1322 charges for communications services to the Commonwealth, any political subdivision of the  
 1323 Commonwealth, and the federal government and any agency or instrumentality of the federal  
 1324 government; and (x) (ix) charges for communications services to any customers on any federal military  
 1325 bases or installations when a franchise fee or similar fee for access is payable to the federal government,  
 1326 or any agency or instrumentality thereof, with respect to the same communications services.

1327 C. Communications services on which the tax is hereby levied shall not include the following: (i)  
 1328 information services; (ii) installation or maintenance of wiring or equipment on a customer's premises;  
 1329 (iii) the sale or rental of tangible personal property; (iv) the sale of advertising, including but not limited  
 1330 to, directory advertising; (v) bad check charges; (vi) billing and collection services; (vii) Internet access  
 1331 service, electronic mail service, electronic bulletin board service, or similar services that are incidental to  
 1332 Internet access, such as voice-capable ~~e-mail~~ *email* or instant messaging; (viii) digital products delivered  
 1333 electronically *that are not digital subscription services, such as including* software, downloaded music,  
 1334 ~~ring tones~~ *ringtones*, and reading materials; and (ix) over-the-air radio and television service broadcast  
 1335 without charge by an entity licensed for such purposes by the Federal Communications Commission.  
 1336 Also, those entities exempt from the tax imposed in accordance with the provisions of Article 4  
 1337 (§ 58.1-3812 et seq.) of Chapter 38 of ~~Title 58.1~~, in effect on January 1, 2006, shall continue to be  
 1338 exempt from the tax imposed in accordance with the provisions of this chapter.

1339 **§ 63.2-527. Notice of earned income tax credit.**

1340 The Department shall provide notice regarding the availability of the federal earned income tax credit  
 1341 authorized in § 32 of the Internal Revenue Code and the state ~~earned income tax credit~~ *income tax*  
 1342 *credit for low-income taxpayers* authorized in subdivision B 2 of § 58.1-339.8 to all recipients of  
 1343 Temporary Assistance for Needy Families pursuant to Chapter 6 (§ 63.2-600 et seq.), SNAP benefits  
 1344 pursuant to § 63.2-801, or medical assistance pursuant to § 32.1-325 who had earned income in the prior  
 1345 tax year based on information available through the Virginia Employment Commission and, according to  
 1346 information made available by the Virginia Department of Taxation, either did not file federal or state  
 1347 income taxes or filed taxes and did not claim the federal or state earned income tax credit. Notice shall  
 1348 be distributed to recipients annually and shall include information on the qualifying income levels, the  
 1349 amount of credit available, the process for applying for the credit, and the availability of assistance in  
 1350 applying for the credit.