

2022 SPECIAL SESSION I

INTRODUCED

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SB451

22100388D

SENATE BILL NO. 451

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 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, 58.1-609.10, and 58.1-611.1 of the Code of Virginia, relating to sales and use tax; exemption for essential personal hygiene products.

Patrons—Boysko, DeSteph, McDougle, Newman, Ebbin and McClellan; Delegate: Willett

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 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, 58.1-609.10, and 58.1-611.1 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-603.1. (For contingent expiration dates, see Acts 2013, c. 766, and Acts 2020, c. 1235) Additional state sales tax in certain counties and cities.

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

B. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in each county and city located in Planning District 15 established pursuant to Chapter 42 (§ 15.2-4200 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 be imposed pursuant to both clause (ii) of subsection A and this subsection.

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

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

§ 58.1-603.1. (For contingent effective date, see Acts 2020, c. 1235; for contingent expiration date, see Acts 2013, c. 766) Additional state sales tax in certain counties and cities.

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

59 consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1. Such
60 tax shall be added to the rate of the state sales tax imposed pursuant to § 58.1-603 in each such county
61 and city and shall be subject to all the provisions of this chapter and the rules and regulations published
62 with respect thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this
63 section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and
64 subject to the same penalties as provided for the state sales tax under § 58.1-603.

65 The revenue generated and collected pursuant to the tax authorized under this section, less the
66 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds
67 established by law. In the case of Planning District 8, the revenue generated and collected therein shall
68 be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue
69 generated and collected therein shall be deposited into the fund established in § 33.2-2600. For
70 additional Planning Districts that may become subject to this section, funds shall be established by
71 appropriate legislation.

72 **§ 58.1-603.2. (For contingent expiration date, see Acts 2018, c. 850) Additional state sales and**
73 **use tax in certain counties and cities of historic significance; Historic Triangle Marketing Fund.**

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

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

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

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

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

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

104 E. 1. There is hereby created in the state treasury a special nonreverting fund to be known as the
105 Historic Triangle Marketing Fund, referred to in this section as "the Fund," to be managed and
106 administered by the Tourism Council of the Greater Williamsburg Chamber and Tourism Alliance. The
107 Fund shall be established on the books of the Comptroller. All revenues generated pursuant to this
108 section shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the
109 Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including
110 interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the
111 Fund. Moneys in the Fund shall be used solely for the purposes of marketing, advertising, and
112 promoting the Historic Triangle area as an overnight tourism destination, with the intent to attract
113 visitors from a sufficient distance so as to require an overnight stay of at least one night, as set forth in
114 this subsection. Expenditures and disbursements from the Fund shall be made by the State Treasurer on
115 warrants issued by the Comptroller upon written request signed by the Secretary of Finance.

116 2. The Tourism Council of the Greater Williamsburg Chamber and Tourism Alliance (the Council)
117 shall consist of members as follows: one member of the James City County Board of Supervisors, one
118 member of the York County Board of Supervisors; one member of the Williamsburg City Council, one
119 representative of the Colonial Williamsburg Foundation, one representative of the Jamestown-Yorktown
120 Foundation, one representative of Busch Gardens Williamsburg, one representative of Historic

121 Jamestowne, one representative of the Williamsburg Hotel and Motel Association, and one representative
122 of the Williamsburg Area Restaurant Association. The Chief Executive Officer of the Virginia Tourism
123 Alliance and the Chief Executive Officer of the Virginia Tourism Corporation shall serve as ex officio,
124 non-voting members of the Council.

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

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

146 **§ 58.1-604.01. (For contingent expiration dates, see Acts 2013, c. 766, and Acts 2020, c. 1235)**
147 **Additional state use tax in certain counties and cities.**

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

158 B. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed
159 in each county and city located in Planning District 15 established pursuant to Chapter 42 (§ 15.2-4200
160 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
161 imposed pursuant to both clause (ii) of subsection A and this subsection.

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

169 D. The revenue generated and collected pursuant to the tax authorized under this section, less the
170 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds
171 established by law. In the case of Planning District 8, the revenue generated and collected therein shall
172 be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue
173 generated and collected therein shall be deposited into the fund established in § 33.2-2600. In the case
174 of Planning District 15, the revenue generated and collected therein shall be deposited into the fund
175 established in § 33.2-3701. For any additional planning districts that may become subject to this section,
176 funds shall be established by appropriate legislation.

177 **§ 58.1-604.01. (For contingent effective date, see Acts 2020, c. 1235; for contingent expiration**
178 **date, see Acts 2013, c. 766) Additional state use tax in certain counties and cities.**

179 In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in each
180 county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of
181 Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more, as shown by the most

182 recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has a
 183 total transit ridership of not less than 15 million riders per year across all transit systems within the
 184 Planning District or (ii) as shown by the most recent United States Census meets the population criteria
 185 set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i),
 186 a retail use tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause
 187 (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which
 188 all of the criteria have been met. Such tax shall not be levied upon food purchased for human
 189 consumption ~~and essential personal hygiene products~~, as such terms are defined in § 58.1-611.1. Such
 190 tax shall be added to the rate of the state use tax imposed pursuant to § 58.1-604 in such county and
 191 city and shall be subject to all the provisions of this chapter and the rules and regulations published with
 192 respect thereto. No discount under § 58.1-622 shall be allowed for the tax described under this section.
 193 Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject
 194 to the same penalties as provided for the state use tax under § 58.1-604.

195 The revenue generated and collected pursuant to the tax authorized under this section, less the
 196 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds
 197 established by law. In the case of Planning District 8, the revenue generated and collected therein shall
 198 be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue
 199 generated and collected therein shall be deposited into the fund established in § 33.2-2600. For any
 200 additional Planning Districts that may become subject to this section, funds shall be established by
 201 appropriate legislation.

202 **§ 58.1-605.1. Additional local sales tax in certain localities; use of revenues for construction or**
 203 **renovation of schools.**

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

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

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

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

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

233 D. Any local sales tax levied under this section shall be administered and collected by the Tax
 234 Commissioner in the same manner and subject to the same exemptions and penalties as provided for the
 235 state sales tax; however, the local sales tax levied under this section shall not be levied on food
 236 purchased for human consumption ~~or essential personal hygiene products~~, as such terms are defined in
 237 § 58.1-611.1.

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

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

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

258 **§ 58.1-606.1. Additional local use tax in certain localities; use of revenues for construction or**
 259 **renovation of schools.**

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

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

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

278 C. Any local use tax levied under this section shall be administered and collected by the Tax
 279 Commissioner in the same manner and subject to the same exemptions and penalties as provided for the
 280 state use tax; however, the local use tax levied under this section shall not be levied on food purchased
 281 for human consumption ~~or essential personal hygiene products~~, as such terms are defined in
 282 § 58.1-611.1.

283 D. The local use tax authorized by this section shall not apply to transactions to which the sales tax
 284 applies, the situs of which for state and local sales tax purposes is the locality of location of each place
 285 of business of every dealer paying the tax to the Commonwealth without regard to the locality of
 286 possible use by the purchasers. However, the local use tax authorized by this section shall apply to
 287 tangible personal property purchased outside the Commonwealth for use or consumption within the
 288 locality imposing the local use tax, or stored within the locality for use or consumption, where the
 289 property would have been subject to the sales tax if it had been purchased within the Commonwealth.
 290 The local use tax shall also apply to leases or rentals of tangible personal property where the place of
 291 business of the lessor is outside the Commonwealth and such leases or rentals are subject to the state
 292 tax. Moreover, the local use tax shall apply in all cases in which the state use tax applies.

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

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

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

305 § 58.1-609.10. Miscellaneous exemptions.

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

308 1. Artificial or propane gas, firewood, coal or home heating oil used for domestic consumption.
309 "Domestic consumption" means the use of artificial or propane gas, firewood, coal or home heating oil
310 by an individual purchaser for other than business, commercial or industrial purposes. The Tax
311 Commissioner shall establish by regulation a system for use by dealers in classifying individual
312 purchases for domestic or nondomestic use based on the principal usage of such gas, wood, coal or oil.
313 Any person making a nondomestic purchase and paying the tax pursuant to this chapter who uses any
314 portion of such purchase for domestic use may, between the first day of the first month and the fifteenth
315 day of the fourth month following the year of purchase, apply for a refund of the tax paid on the
316 domestic use portion.

317 2. An occasional sale, as defined in § 58.1-602. A nonprofit organization that is eligible to be granted
318 an exemption on its purchases pursuant to § 58.1-609.11, and that is otherwise eligible for the exemption
319 pursuant to this subdivision, shall be exempt pursuant to this subdivision on its sales of (i) food,
320 prepared food and meals and (ii) tickets to events that include the provision of food, prepared food and
321 meals, so long as such sales take place on fewer than 24 occasions in a calendar year.

322 3. Tangible personal property for future use by a person for taxable lease or rental as an established
323 business or part of an established business, or incidental or germane to such business, including a
324 simultaneous purchase and taxable leaseback.

325 4. Delivery of tangible personal property outside the Commonwealth for use or consumption outside
326 of the Commonwealth. Delivery of goods destined for foreign export to a factor or export agent shall be
327 deemed to be delivery of goods for use or consumption outside of the Commonwealth.

328 5. Tangible personal property purchased with food coupons issued by the United States Department
329 of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special
330 Supplemental Food Program for Women, Infants, and Children.

331 6. Tangible personal property purchased for use or consumption in the performance of maintenance
332 and repair services at Nuclear Regulatory Commission-licensed nuclear power plants located outside the
333 Commonwealth.

334 7. Beginning July 1, 1997, and ending July 1, 2006, a professional's provision of original, revised,
335 edited, reformatted or copied documents, including but not limited to documents stored on or transmitted
336 by electronic media, to its client or to third parties in the course of the professional's rendition of
337 services to its clientele.

338 8. School lunches sold and served to pupils and employees of schools and subsidized by government;
339 school textbooks sold by a local board or authorized agency thereof; and school textbooks sold for use
340 by students attending a college or other institution of learning, when sold (i) by such institution of
341 learning or (ii) by any other dealer, when such textbooks have been certified by a department or
342 instructor of such institution of learning as required textbooks for students attending courses at such
343 institution.

344 9. Medicines, drugs, hypodermic syringes, artificial eyes, contact lenses, eyeglasses, eyeglass cases,
345 and contact lens storage containers when distributed free of charge, all solutions or sterilization kits or
346 other devices applicable to the wearing or maintenance of contact lenses or eyeglasses when distributed
347 free of charge, and hearing aids dispensed by or sold on prescriptions or work orders of licensed
348 physicians, dentists, optometrists, ophthalmologists, opticians, audiologists, hearing aid dealers and
349 fitters, nurse practitioners, physician assistants, and veterinarians; controlled drugs purchased for use by
350 a licensed physician, optometrist, licensed nurse practitioner, or licensed physician assistant in his
351 professional practice, regardless of whether such practice is organized as a sole proprietorship,
352 partnership, or professional corporation, or any other type of corporation in which the shareholders and
353 operators are all licensed physicians, optometrists, licensed nurse practitioners, or licensed physician
354 assistants engaged in the practice of medicine, optometry, or nursing; medicines and drugs purchased for
355 use or consumption by a licensed hospital, nursing home, clinic, or similar corporation not otherwise
356 exempt under this section; and samples of prescription drugs and medicines and their packaging
357 distributed free of charge to authorized recipients in accordance with the federal Food, Drug, and
358 Cosmetic Act (21 U.S.C.A. § 301 et seq., as amended). With the exceptions of those medicines and
359 drugs used for agricultural production animals that are exempt to veterinarians under subdivision 1 of §
360 58.1-609.2, any veterinarian dispensing or selling medicines or drugs on prescription shall be deemed to
361 be the user or consumer of all such medicines and drugs.

362 10. Wheelchairs and parts therefor, braces, crutches, prosthetic devices, orthopedic appliances,
363 catheters, urinary accessories, other durable medical equipment and devices, and related parts and
364 supplies specifically designed for those products; and insulin and insulin syringes, and equipment,
365 devices or chemical reagents that may be used by a diabetic to test or monitor blood or urine, when
366 such items or parts are purchased by or on behalf of an individual for use by such individual. Durable

367 medical equipment is equipment that (i) can withstand repeated use, (ii) is primarily and customarily
368 used to serve a medical purpose, (iii) generally is not useful to a person in the absence of illness or
369 injury, and (iv) is appropriate for use in the home.

370 11. Drugs and supplies used in hemodialysis and peritoneal dialysis.

371 12. Special equipment installed on a motor vehicle when purchased by a handicapped person to
372 enable such person to operate the motor vehicle.

373 13. Special typewriters and computers and related parts and supplies specifically designed for those
374 products used by handicapped persons to communicate when such equipment is prescribed by a licensed
375 physician.

376 14. a. (i) Any nonprescription drugs and proprietary medicines purchased for the cure, mitigation,
377 treatment, or prevention of disease in human beings and (ii) any samples of nonprescription drugs and
378 proprietary medicines distributed free of charge by the manufacturer, including packaging materials and
379 constituent elements and ingredients.

380 b. The terms "nonprescription drugs" and "proprietary medicines" shall be defined pursuant to
381 regulations promulgated by the Department of Taxation. The exemption authorized in this subdivision
382 shall not apply to cosmetics.

383 15. Tangible personal property withdrawn from inventory and donated to (i) an organization exempt
384 from taxation under § 501(c)(3) of the Internal Revenue Code or (ii) the Commonwealth, any political
385 subdivision of the Commonwealth, or any school, agency, or instrumentality thereof.

386 16. Tangible personal property purchased by nonprofit churches that are exempt from taxation under
387 § 501(c)(3) of the Internal Revenue Code, or whose real property is exempt from local taxation pursuant
388 to the provisions of § 58.1-3606, for use (i) in religious worship services by a congregation or church
389 membership while meeting together in a single location and (ii) in the libraries, offices, meeting or
390 counseling rooms or other rooms in the public church buildings used in carrying out the work of the
391 church and its related ministries, including kindergarten, elementary and secondary schools. The
392 exemption for such churches shall also include baptistries; bulletins, programs, newspapers and
393 newsletters that do not contain paid advertising and are used in carrying out the work of the church;
394 gifts including food for distribution outside the public church building; food, disposable serving items,
395 cleaning supplies and teaching materials used in the operation of camps or conference centers by the
396 church or an organization composed of churches that are exempt under this subdivision and which are
397 used in carrying out the work of the church or churches; and property used in caring for or maintaining
398 property owned by the church including, but not limited to, mowing equipment; and building materials
399 installed by the church, and for which the church does not contract with a person or entity to have
400 installed, in the public church buildings used in carrying out the work of the church and its related
401 ministries, including, but not limited to worship services; administrative rooms; and kindergarten,
402 elementary, and secondary schools.

403 17. Medical products and supplies, which are otherwise taxable, such as bandages, gauze dressings,
404 incontinence products and wound-care products, when purchased by a Medicaid recipient through a
405 Department of Medical Assistance Services provider agreement.

406 18. Beginning July 1, 2007, and ending July 1, 2012, multifuel heating stoves used for heating an
407 individual purchaser's residence. "Multifuel heating stoves" are stoves that are capable of burning a wide
408 variety of alternative fuels, including, but not limited to, shelled corn, wood pellets, cherry pits, and
409 olive pits.

410 19. Fabrication of animal meat, grains, vegetables, or other foodstuffs when the purchaser (i) supplies
411 the foodstuffs and they are consumed by the purchaser or his family, (ii) is an organization exempt from
412 taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code, or (iii) donates the foodstuffs to an
413 organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code.

414 20. Beginning July 1, 2018, and ending July 1, 2022, parts, engines, and supplies used for
415 maintaining, repairing, or reconditioning aircraft or any aircraft's avionics system, engine, or component
416 parts. This exemption shall not apply to tools and other equipment not attached to or that does not
417 become a part of the aircraft. For purposes of this subdivision, "aircraft" shall include both manned and
418 unmanned systems.

419 21. A gun safe with a selling price of \$1,500 or less. For purposes of this subdivision, "gun safe"
420 means a safe or vault that is (i) commercially available, (ii) secured with a digital or dial combination
421 locking mechanism or biometric locking mechanism, and (iii) designed for the storage of a firearm or of
422 ammunition for use in a firearm. "Gun safe" does not include a glass-faced cabinet. Any discount,
423 coupon, or other credit offered by the retailer or a vendor of the retailer to reduce the final price to the
424 customer shall be taken into account in determining the selling price for purposes of this exemption.

425 22. *Essential personal hygiene products. For purposes of this subdivision, "essential personal hygiene*
426 *products" means (i) nondurable incontinence products such as diapers, disposable undergarments, pads,*
427 *and bed sheets and (ii) menstrual cups and pads, pantyliners, sanitary napkins, tampons, and other*

428 *products used to absorb or contain menstrual flow.*

429 **§ 58.1-611.1. Rate of tax on sales of food purchased for human consumption.**

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

435 B. The provisions of this section shall not affect the imposition of tax on food purchased for human
436 consumption ~~and essential personal hygiene products~~ pursuant to §§ 58.1-605 and 58.1-606.

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

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