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HOUSE BILL NO. 1402

Offered January 11, 2023

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A BILL to amend and reenact §§ 58.1-3503 and 58.1-3507 of the Code of Virginia, relating to personal property taxes; valuation.

Patron—March

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That §§ 58.1-3503 and 58.1-3507 of the Code of Virginia are amended and reenacted as follows:****§ 58.1-3503. General classification of tangible personal property.**

A. Tangible personal property is classified for valuation purposes according to the following separate categories which are not to be considered separate classes for rate purposes:

1. Farm animals, except as exempted under § 58.1-3505.

2. Farm machinery, except as exempted under § 58.1-3505.

3. Automobiles, except those described in subdivisions 7, 8, and 9 of this subsection and in subdivision A 8 of § 58.1-3504, which shall be valued by means of a recognized pricing guide or if the model and year of the individual automobile are not listed in the recognized pricing guide, the individual vehicle may be valued on the basis of percentage or percentages of original cost. In using a recognized pricing guide, the commissioner shall use either of the following two methods. The commissioner may use all applicable adjustments in such guide to determine the value of each individual automobile, or alternatively, if the commissioner does not utilize all applicable adjustments in valuing each automobile, he shall use the base value specified in such guide which may be either average retail, wholesale, or loan value, so long as uniformly applied within classifications of property. If the model and year of the individual automobile are not listed in the recognized pricing guide, the taxpayer may present to the commissioner proof of the original cost, and the basis of the tax for purposes of the motor vehicle sales and use tax as described in § 58.1-2405 shall constitute proof of original cost. If such percentage or percentages of original cost do not accurately reflect fair market value, or if the taxpayer does not supply proof of original cost, then the commissioner may select another method which establishes fair market value.

4. Trucks of less than two tons, which may be valued by means of a recognized pricing guide or, if the model and year of the individual truck are not listed in the recognized pricing guide, on the basis of a percentage or percentages of original cost.

5. Trucks and other vehicles, as defined in § 46.2-100, except those described in subdivisions 4, and 6 through 10 of this subsection, which shall be valued by means of either a recognized pricing guide using the lowest value specified in such guide or a percentage or percentages of original cost.

6. Manufactured homes, as defined in § 36-85.3, which may be valued on the basis of square footage of living space.

7. Antique motor vehicles, as defined in § 46.2-100, which may be used for general transportation purposes as provided in subsection C of § 46.2-730.

8. Taxicabs.

9. Motor vehicles with specially designed equipment for use by the handicapped, which shall not be valued in relation to their initial cost, but by determining their actual market value if offered for sale on the open market.

10. Motorcycles, mopeds, all-terrain vehicles, and off-road motorcycles as defined in § 46.2-100, campers and other recreational vehicles, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.

11. Boats weighing under five tons and boat trailers, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.

12. Boats or watercraft weighing five tons or more, which shall be valued by means of a percentage or percentages of original cost.

13. Aircraft, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.

14. Household goods and personal effects, except as exempted under § 58.1-3504.

15. Tangible personal property used in a research and development business, which shall be valued by means of a percentage or percentages of original cost.

16. Programmable computer equipment and peripherals used in business which shall be valued by

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59 means of a percentage or percentages of original cost to the taxpayer, or by such other method as may
60 reasonably be expected to determine the actual fair market value.

61 17. Computer equipment and peripherals used in a data center, as defined in subdivision A 43 of
62 § 58.1-3506, which shall be valued by means of a percentage or percentages of original cost, or by such
63 other method as may reasonably be expected to determine the actual fair market value.

64 18. All tangible personal property employed in a trade or business other than that described in
65 subdivisions 1 through 17, which shall be valued by means of a percentage or percentages of original
66 cost.

67 19. Outdoor advertising signs regulated under Article 1 (§ 33.2-1200 et seq.) of Chapter 12 of Title
68 33.2.

69 20. All other tangible personal property.

70 B. Methods of valuing property may differ among the separate categories, so long as each method
71 used is uniform within each category, is consistent with requirements of this section and may reasonably
72 be expected to determine actual fair market value as determined by the commissioner of revenue or
73 other assessing official; however, assessment ratios shall only be used with the concurrence of the local
74 governing body. A commissioner of revenue shall upon request take into account the condition of the
75 property. The term "condition of the property" includes, but is not limited to, technological obsolescence
76 of property where technological obsolescence is an appropriate factor for valuing such property. The
77 commissioner of revenue shall make available to taxpayers on request a reasonable description of his
78 valuation methods. Such commissioner, or other assessing officer, or his authorized agent, when using a
79 recognized pricing guide as provided for in this section, may automatically extend the assessment if the
80 pricing information is stored in a computer. For any locality in which the commissioner of revenue or
81 other assessing official adjusts the valuation of property described in subdivision A 3 to account for the
82 amount of mileage on such vehicles, such adjustment shall also be provided to motorcycles described in
83 subdivision A 10.

84 C. *Notwithstanding the foregoing, for taxable years beginning on and after January 1, 2024, all*
85 *tangible personal property described in subsection A that is employed in a trade or business shall be*
86 *valued according to the federal depreciation method. For purposes of this section, "federal depreciation*
87 *method" means the Modified Accelerated Cost Recovery System (MACRS) employed by the federal*
88 *Internal Revenue Service, or any such successor method or system. Such property shall be valued using*
89 *the depreciation system, property class, and recovery period properly used by the taxpayer for purposes*
90 *of his federal income tax return. However, in the event that the federal depreciation method is not*
91 *applicable to the property in question, such property shall be valued according to the methods otherwise*
92 *provided in subsections A and B.*

93 **§ 58.1-3507. Certain machinery and tools segregated for local taxation only; notice prior to**
94 **change in valuation, hearing.**

95 A. Machinery and tools, except idle machinery and tools as defined in subsection D and machinery
96 and equipment used by farm wineries as defined in § 4.1-100, used in a manufacturing, mining, water
97 well drilling, processing or reprocessing, radio or television broadcasting, dairy, dry cleaning or laundry
98 business, or a business primarily engaged in advanced recycling, as defined in § 58.1-439.7, shall be
99 listed and are hereby segregated as a class of tangible personal property separate from all other classes
100 of property and shall be subject to local taxation only. The rate of tax imposed by a county, city, or
101 town on such machinery and tools shall not exceed the rate imposed upon the general class of tangible
102 personal property. Idle machinery and tools are taxable as capital under § 58.1-1101.

103 B. 1. Machinery and tools segregated for local taxation pursuant to subsection A, other than energy
104 conservation equipment of manufacturers, shall be valued by means of depreciated cost or a percentage
105 or percentages of original total capitalized cost excluding capitalized interest. In valuing machinery and
106 tools, the commissioner of the revenue shall, upon the written request of the taxpayer, consider any bona
107 fide, independent appraisal presented by the taxpayer.

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

113 2. *Notwithstanding the foregoing, for taxable years beginning on and after January 1, 2024,*
114 *machinery and tools segregated for local taxation pursuant to subsection A shall be valued according to*
115 *the federal depreciation method. For purposes of this section, "federal depreciation method" means the*
116 *Modified Accelerated Cost Recovery System (MACRS) employed by the federal Internal Revenue Service,*
117 *or any such successor method or system. Such property shall be valued using the depreciation system,*
118 *property class, and recovery period properly used by the taxpayer for purposes of his federal income tax*
119 *return. However, in the event that the federal depreciation method is not applicable to the property in*
120 *question, such property shall be valued according to the methods otherwise provided in subdivision 1.*

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

D. "Idle machinery and tools" means machinery and tools that (i) (a) have been discontinued in use continuously for at least one year prior to any tax day or (b) on and after January 1, 2007, have been specifically identified in writing by the taxpayer to the commissioner of the revenue or other assessing official, on or before April 1 of such year, as machinery and tools that the taxpayer intends to withdraw from service not later than the next succeeding tax day and (ii) are not in use on the tax day and no reasonable prospect exists that such machinery and tools will be returned to use during the tax year.

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

F. The Department of Taxation shall promulgate guidelines for the use of local governments in applying the provisions of this section related to idle machinery and tools. In preparing such guidelines, the Department shall not be subject to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) for guidelines promulgated on or before January 1, 2008, but shall cooperate with and seek the counsel of local officials and interested groups. After January 1, 2008, such guidelines shall be accorded the weight of a regulation under § 58.1-205 and any amendments to such guidelines shall be subject to the Administrative Process Act.

G. The Tax Commissioner shall have the authority to issue advisory written opinions in specific cases to interpret the provisions of this section related to idle machinery and tools and the guidelines issued pursuant to subsection F; however, the Tax Commissioner shall not be required to interpret any local ordinance. The guidelines and opinions issued pursuant to this section shall not be applicable as an interpretation of any other tax law.