

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 58.1-422.1 of the Code of Virginia, relating to taxable income*  
3 *apportionment; retail companies.*

4 [S 1346]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 58.1-422.1 of the Code of Virginia is amended and reenacted as follows:**8 **§ 58.1-422.1. Retail companies; apportionment.**9 A. For taxable years beginning on or after July 1, 2012, the Virginia taxable income of a retail  
10 company, excluding income allocable under § 58.1-407, shall be apportioned within and without the  
11 Commonwealth as follows:12 1. From July 1, 2012, until July 1, 2014, by multiplying such income by a fraction, the numerator of  
13 which is the property factor plus the payroll factor plus triple the sales factor and the denominator of  
14 which is five, except that when the sales factor does not exist, the denominator of the fraction shall be  
15 the number of existing factors, and when the sales factor exists but the payroll factor or property factor  
16 does not exist, the denominator of the fraction shall be the number of existing factors plus two;17 2. From July 1, 2014, until July 1, 2015, by multiplying such income by a fraction, the numerator of  
18 which is the property factor plus the payroll factor plus quadruple the sales factor and the denominator  
19 of which is six, except that when the sales factor does not exist, the denominator of the fraction shall be  
20 the number of existing factors, and when the sales factor exists but the payroll factor or property factor  
21 does not exist, the denominator of the fraction shall be the number of existing factors plus three; and

22 3. From July 1, 2015, and thereafter, by multiplying such income by the sales factor.

23 B. As used in this section, "retail company" means a domestic or foreign corporation primarily  
24 engaged in activities that, in accordance with the North American Industry Classification System  
25 (NAICS), United States Manual, United States Office of Management and Budget, 1997 Edition, would  
26 be included in Sectors 44-45.27 C. Any eligible company, as defined in § 58.1-405.1, may subtract the value of its sales in the  
28 Commonwealth during the taxable year from the numerator of the ratio in subdivision A 3. Such eligible  
29 company may make such modification for the taxable year in which it first becomes eligible and for the  
30 six subsequent, consecutive taxable years, except for any year in which the eligible company's (i) total,  
31 cumulative new capital investment falls below the applicable initial threshold or (ii) number of new jobs  
32 falls below the applicable initial threshold.33 D. For taxable years beginning on or after January 1, 2023, corporations that are affiliated within  
34 the meaning of § 58.1-302 and filing on a consolidated basis may elect to apportion the taxable income  
35 of all members of such affiliated group using the sales factor alone notwithstanding that one or more  
36 members of such affiliated group would be required to use different apportionment factors if separate  
37 returns were filed. Such an election shall be valid only with respect to taxable years in which 80  
38 percent or more of the sales of such affiliated group after consolidation and eliminations is derived from  
39 activities of a retail company. Such an election, once made, shall not be changed without permission of  
40 the Department.

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