

# VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

## CHAPTER 507

*An Act to amend and reenact §§ 58.1-400.1 and 58.1-2600 of the Code of Virginia, relating to the taxation of commercial mobile services.*

[S 1002]

Approved March 23, 1995

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-400.1 and 58.1-2600 of the Code of Virginia are amended and reenacted as follows:**

§ 58.1-400.1. Minimum tax on telecommunications companies.

A. A telecommunications company shall be subject to a minimum tax, instead of the corporate income tax imposed by § 58.1-400, at the applicable rate on its gross receipts for the calendar year which ends during the taxable year if the tax imposed by § 58.1-400 is less than the minimum tax imposed by this section. The applicable rate of tax for each calendar year is:

Calendar Year	Tax Rate
1989	1.2%
1990	1.2%
1991	1.0%
1992	0.9%
1993	0.8%
1994	0.7%
1995	0.6%

For all calendar years after 1995, the minimum tax shall be imposed at the rate of 0.5 percent of gross receipts.

B. In the case of an income tax return for a period of less than twelve months the minimum tax shall be based on the gross receipts for the calendar year which ends during the taxable period or, if none, the most recent calendar year which ended before the taxable period. The minimum tax shall be prorated by the number of months in the taxable period.

C. The State Corporation Commission shall certify annually to the Department the name, address, and gross receipts for each telecommunications company.

D. The following words and terms, when used in this section, shall have the following meaning:

"Gross receipts" means all revenue from business done within the Commonwealth, including the proportionate part of interstate revenue attributable to the Commonwealth if such inclusion will result in annual gross receipts exceeding \$5 million, with the following deductions:

1. Revenue billed on behalf of another such telephone company or person to the extent such revenues are later paid over to or settled with that company or person; and

2. Revenues from carrier access charges received from a telephone company which is holding a certificate of public convenience and necessity from the State Corporation Commission or from a telephone utility company providing interstate communications service, together with all revenue from billing and collection amounting to less than \$500,000 per year, and all revenues from shared network facilities agreements established under federal court order and like revenue received by other local exchange carriers.

"Telecommunications company" means a telephone company or other person holding a certificate of convenience and necessity granted by the State Corporation Commission authorizing local exchange telephone service, interexchange service, radio common carrier system or a cellular mobile radio communications system; ; or a person authorized by the Federal Communications Commission to provide commercial mobile service as defined in § 332(d)(1) of the Communications Act of 1934, as amended, where such service includes cellular mobile radio communications services or personal communications services; or a person holding a certificate issued pursuant to § 214 of the Communications Act of 1934, as amended, authorizing telephone service; or a telegraph company or other person operating the apparatus necessary to communicate by telegraph.

§ 58.1-2600. Definitions.

As used in this chapter:

"Certificated motor vehicle carrier" means a common carrier by motor vehicle operating over regular routes under a certificate of public convenience and necessity issued by the Commission. A transit company or bus company that is owned or operated directly or indirectly by a political subdivision of this Commonwealth shall not be deemed a "certificated motor vehicle carrier" for the purposes of this chapter and shall not be subject to the imposition of the tax imposed in § 58.1-2650, nor shall such

transit company or bus company thereby be subject to the imposition of local property levies.

(Effective until December 31, 1996) "Cogenerator" means a qualifying cogenerator or qualifying small power producer within the meaning of regulations adopted by the Federal Energy Regulatory Commission in implementation of the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617).

"Commission" means the State Corporation Commission which is hereby designated pursuant to Article X, Section 2 of the Constitution of Virginia as the central state agency responsible for the assessment of the real and personal property of all public service corporations, except those public service corporations for which the Department of Taxation is so designated, upon which the Commonwealth levies a license tax measured by the gross receipts of such corporations. The State Corporation Commission shall also assess the property of each telephone or telegraph company.

"Department" means the Department of Taxation which is hereby designated pursuant to Article X, Section 2 of the Constitution of Virginia as the central state agency to assess the real and personal property of railroads and pipeline transmission companies as defined herein.

"Estimated tax" means the amount of tax which a taxpayer estimates as being imposed by Article 2 (§ 58.1-2620 et seq.) of this chapter for the tax year as measured by the gross receipts received in the taxable year.

"Freight car company" includes every car trust, mercantile or other company or person not domiciled in this Commonwealth owning stock cars, furniture cars, fruit cars, tank cars or other similar cars. Such term shall not include a company operating a line as a railroad.

"Gross receipts" means the total of all revenue derived in the Commonwealth, including but not limited to, income from the provision or performance of a service or the performance of incidental operations not necessarily associated with the particular service performed, without deductions for expenses or other adjustments. Such term shall not, however, include interest, dividends, investment income or receipts from the sale of real property or other assets except inventory of goods held for sale or resale.

"Pipeline distribution company" means a corporation, other than a pipeline transmission company, which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the products or by-products thereof to a purchaser for purposes of furnishing heat or light.

"Pipeline transmission company" means a corporation authorized to transmit natural gas, manufactured gas or crude petroleum and the products or by-products thereof in the public service by means of a pipeline or pipelines from one point to another when such gas or petroleum is not for sale to an ultimate consumer for purposes of furnishing heat or light.

"Tax Commissioner" means the chief executive officer of the Department of Taxation or his designee.

"Tax year" means the twelve-month period beginning on January 1 and ending on December 31 of the same calendar year, such year also being the tax assessment year or the year in which the tax levied under this chapter shall be paid.

"Taxable year" means the calendar year preceding the tax year, upon which the gross receipts are computed as a basis for the payment of the tax levied pursuant to this chapter.

"Telegraph company" means a corporation or person operating the apparatus necessary to communicate by telegraph.

"Telephone company" means a person holding a certificate of convenience and necessity granted by the State Corporation Commission authorizing local exchange telephone service, interexchange service, radio common carrier system or a cellular mobile radio communications system; *or a person authorized by the Federal Communications Commission to provide commercial mobile service as defined in § 332(d)(1) of the Communications Act of 1934, as amended, where such service includes cellular mobile radio communications services or personal communications services*; or a person holding a certificate issued pursuant to § 214 of the Communications Act of 1934, as amended, authorizing telephone service.

For purposes of this chapter the terms "license tax" and "franchise tax" shall be synonymous.