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**HOUSE BILL NO. 108**

Offered January 14, 2004

Prefiled December 17, 2003

*A BILL to amend and reenact §§ 15.2-1104.1, as it shall become effective, 58.1-320, 58.1-321, 58.1-324, 58.1-602, 58.1-603, 58.1-604, 58.1-608.3, 58.1-609.1, 58.1-610, as it shall become effective, 58.1-612, 58.1-615, 58.1-623, 58.1-627, 58.1-628, 58.1-629, 58.1-638, 58.1-901, 58.1-1720, 58.1-3510.1, 58.1-3510.3, as it shall become effective, and 58.1-3818, as it shall become effective and as it may become effective, of the Code of Virginia; and to repeal §§ 58.1-322, 58.1-322.2, 58.1-331 through 58.1-339.10, 58.1-608.1, 58.1-609.2, 58.1-609.3, 58.1-609.5, 58.1-609.6, 58.1-609.9, 58.1-609.10, as it shall become effective, 58.1-609.11, as it shall become effective, 58.1-609.13, 58.1-610.1, 58.1-611.1, and Chapter 37 (§§ 58.1-3700 et seq.) of Title 58.1 of the Code of Virginia, relating to income tax; sales and use tax; estate tax; and local license taxes.*

Patron—Louderback

Referred to Committee on Finance

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

**1. That §§ 15.2-1104.1, as it will become effective, 58.1-320, 58.1-321, 58.1-324, 58.1-602, 58.1-603, 58.1-604, 58.1-608.3, 58.1-609.1, 58.1-610, as it shall become effective, 58.1-612, 58.1-615, 58.1-623, 58.1-627, 58.1-628, 58.1-629, 58.1-638, 58.1-901, 58.1-1720, 58.1-3510.1, 58.1-3510.3, as it shall become effective, and 58.1-3818, as it shall become effective and as it may become effective, of the Code of Virginia are amended and reenacted as follows:**

§ 15.2-1104.1. (Effective July 1, 2004) Tax on admissions to charitable events.

A municipal corporation that generally levies an admissions tax may, by ordinance, elect not to levy an admissions tax on admission to an event, provided that the purpose of the event is solely to raise money for charitable purposes and that the net proceeds derived from the event will be transferred to an entity or entities that are exempt from sales and use tax pursuant to § 58.1-609.11.

§ 58.1-320. Imposition of tax.

*A. For taxable years beginning January 1, 1990, through December 31, 2004, 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 or after January 1, 2005, a tax is hereby annually imposed on the Virginia taxable income for each taxable year of every individual as follows:*

Three and one-half percent on income in excess of \$15,000, but not in excess of \$25,000;

Four percent on income in excess of \$25,000, but not in excess of \$30,000;

Five and one-half percent on income in excess of \$30,000, but not in excess of \$50,000; and

Six and one-quarter percent on income in excess of \$50,000.

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59 § 58.1-321. Exemptions and exclusions.

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

61 1. A single individual where the Virginia adjusted gross income for such taxable year is less than  
62 \$3,000 for taxable years beginning before January 1, 1987; and less than \$5,000 for taxable years  
63 beginning on and after January 1, 1987, through December 31, 2004;

64 2. An individual and spouse if their combined Virginia adjusted gross income for such taxable year  
65 is less than \$3,000 for taxable years beginning before January 1, 1987; and less than \$8,000 for taxable  
66 years beginning on and after January 1, 1987, through December 31, 2004, (or one-half of such amount  
67 in the case of a married individual filing a separate return).

68 For the purposes of this section subsection "Virginia adjusted gross income" means federal adjusted  
69 gross income for the taxable years with the modifications specified in § 58.1-322 B, § 58.1-322 C and  
70 the additional deductions allowed under § 58.1-322 D 2 b and D 5.

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

72 1. A single individual where the Virginia taxable income for such taxable year is \$15,000 or less  
73 beginning on or after January 1, 2005;

74 2. An individual and spouse if their combined Virginia taxable income for such taxable year is  
75 \$30,000 or less for taxable years beginning on or after January 1, 2005, (or one-half of such amount in  
76 the case of a married individual filing a separate return).

77 For the purposes of this subsection "Virginia taxable income" means federal adjusted gross income  
78 for the taxable years minus (i) income derived from obligations, or on the sale or exchange of  
79 obligations, of the United States and on obligations or securities of any authority, commission or  
80 instrumentality of the United States to the extent exempt from state income taxes under the laws of the  
81 United States including, but not limited to, stocks, bonds, treasury bills, and treasury notes, but not  
82 including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on  
83 other normal business transactions; and (ii) benefits received under Title II of the Social Security Act  
84 and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue  
85 Code.

86 B C. Persons in the armed forces of the United States stationed on military or naval reservations  
87 within Virginia who are not domiciled in Virginia shall not be held liable to income taxation for  
88 compensation received from military or naval service.

89 § 58.1-324. Husband and wife.

90 A. If the federal taxable income of husband or wife is determined on a separate federal return, their  
91 Virginia taxable incomes shall be separately determined.

92 B. If the federal taxable income of husband and wife is determined on a joint federal return, or if  
93 neither files a federal return:

94 1. Their tax shall be determined on their joint Virginia taxable income; or

95 2. Separate taxes may be determined on their separate Virginia taxable incomes if they so elect.

96 C. ~~Where~~ For taxable years ending on or before December 31, 2004, when husband and wife have  
97 not separately reported and claimed items of income, exemptions and deductions for federal income tax  
98 purposes, and have not elected to file a joint Virginia income tax return, such items allowable for  
99 Virginia income tax purposes shall be allocated and adjusted as follows:

100 1. Income shall be allocated to the spouse who earned the income or with respect to whose property  
101 the income is attributable.

102 2. Allowable deductions with respect to trade, business, production of income, or employment shall  
103 be allocated to the spouse to whom attributable.

104 3. Nonbusiness deductions, where properly taken for federal income tax purposes, shall be allowable  
105 for Virginia income tax purposes, but shall be allocable between husband and wife as they may mutually  
106 agree. For this purpose, "nonbusiness deductions" consist of allowable deductions not described in  
107 subdivision 2 of this subsection.

108 4. Where the standard deduction or low income allowance is properly taken pursuant to subdivision  
109 D 1 a of § 58.1-322 such deduction or allowance shall be allocable between husband and wife as they  
110 may mutually agree.

111 5. Personal exemptions properly allowable for federal income tax purposes shall be allocated for  
112 Virginia income tax purposes as husband and wife may mutually agree; however, exemptions for  
113 taxpayer and spouse together with exemptions for old age and blindness must be allocated respectively  
114 to the spouse to whom they relate.

115 D. For taxable years beginning on or after January 1, 2005, when husband and wife have not  
116 separately reported and claimed items of income, exemptions and deductions for federal income tax  
117 purposes, and have not elected to file a joint Virginia income tax return, such items allowable for  
118 Virginia income tax purposes shall be allocated and adjusted as follows:

119 1. Income shall be allocated to the spouse who earned the income or with respect to whose property  
120 the income is attributable.

2. Allowable deductions in accordance with the provisions of subsection B of § 58.1-321 with respect to social security income and income earned on obligations of the federal government included in federal adjusted gross income shall be allocated to the spouse to whom attributable.

3. Allowable deductions with respect to trade, business, production of income, or employment shall be allocated to the spouse to whom attributable.

4. Nonbusiness deductions, where properly taken for federal income tax purposes, shall be allowable for Virginia income tax purposes, but shall be allocable between husband and wife as they may mutually agree. For this purpose, "nonbusiness deductions" consist of allowable deductions not described in subdivision 3 of this subsection.

DE. Where allocations are permitted to be made under ~~subsection~~ subsections C or D pursuant to agreement between husband and wife, and husband and wife have failed to agree as to those allocations, such allocations shall be made between husband and wife in a manner corresponding to the treatment for federal income tax purposes of the items involved, under regulations prescribed by the Department of Taxation.

§ 58.1-602. Definitions.

As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

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

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

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

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

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

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

"Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of tangible personal property or for furnishing services, computed with the same deductions, where applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use, but not less frequently than monthly.

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

"Import" and "imported" are words applicable to services or tangible personal property imported into this Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words applicable to services or tangible personal property exported from this Commonwealth to other states as well as to foreign countries.

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

"Internet" means collectively, the myriad of computer and telecommunications facilities, which comprise the interconnected world-wide network of computer networks.

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

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

185 "Manufacturing, processing, refining, or conversion" includes the production line of the plant starting  
186 with the handling and storage of raw materials at the plant site and continuing through the last step of  
187 production where the product is finished or completed for sale and conveyed to a warehouse at the  
188 production site, and also includes equipment and supplies used for production line testing and quality  
189 control. The term "manufacturing" shall also include the necessary ancillary activities of newspaper and  
190 magazine printing when such activities are performed by the publisher of any newspaper or magazine  
191 for sale daily or regularly at average intervals not exceeding three months.

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

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

207 "Modular building manufacturer" means a person or corporation who owns or operates a  
208 manufacturing facility and is engaged in the fabrication, construction and assembling of building  
209 supplies and materials into modular buildings, as defined in this section, at a location other than at the  
210 site where the modular building will be assembled on the permanent foundation and may or may not be  
211 engaged in the process of affixing the modules to the foundation at the permanent site.

212 "Modular building retailer" means any person who purchases or acquires a modular building from a  
213 modular building manufacturer, or from another person, for subsequent sale to a customer residing  
214 within or outside of the Commonwealth, with or without installation of the modular building to the  
215 foundation at the permanent site.

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

219 "Occasional sale" means a sale of *a service or* tangible personal property not *provided*, held, or used  
220 by a seller in the course of an activity for which he is required to hold a certificate of registration,  
221 including the sale or exchange of all or substantially all the assets of any business and the reorganization  
222 or liquidation of any business, provided such sale or exchange is not one of a series of sales and  
223 exchanges sufficient in number, scope and character to constitute an activity requiring the holding of a  
224 certificate of registration.

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

228 "Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation,  
229 joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver,  
230 auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body  
231 politic or political subdivision, whether public or private, or quasi-public, and the plural of such term  
232 shall mean the same as the singular.

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

236 "Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in  
237 the form of tangible personal property or services taxable under this chapter, and shall include any such  
238 transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale  
239 must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale  
240 for resale which is not in strict compliance with such regulations shall be personally liable for payment  
241 of the tax.

242 The terms "retail sale" and a "sale at retail" shall specifically include the following: (i) the sale or  
243 charges for any room or rooms, lodgings, or accommodations furnished to transients for less than ninety

continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration; and (ii) sales of tangible personal property to persons for resale when because of the operation of the business, or its very nature, or the lack of a place of business in which to display a certificate of registration, or the lack of a place of business in which to keep records, or the lack of adequate records, or because such persons are minors or transients, or because such persons are engaged in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will lose tax funds due to the difficulty of policing such business operations. The Tax Commissioner is authorized to promulgate regulations requiring vendors of or sellers to such persons to collect the tax imposed by this chapter on the cost price of such tangible personal property to such persons and may refuse to issue certificates of registration to such persons.

The term "transient" shall not include a purchaser of camping memberships, time-shares, condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in, real estate, however created or sold and whether registered with this Commonwealth or not. Further, a purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a specific real estate project on an ongoing basis throughout its term shall not be deemed a transient; provided, however, that the term or time period involved is for seven years or more.

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

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

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

"Sales price" means the total amount for which tangible personal property or services are sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, losses or any other expenses whatsoever. "Sales price" shall not include (i) any cash discount allowed and taken (ii) finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other conditional contracts providing for deferred payments of the purchase price, or (iii) separately stated local property taxes collected. Where used articles are taken in trade, or in a series of trades as a credit or part payment on the sale of new or used articles, the tax levied by this chapter shall be paid on the net difference between the sales price of the new or used articles and the credit for the used articles.

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

"Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. The term "tangible personal property" shall not include stocks, bonds, notes, insurance or other obligations or securities.

"Use" means the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of business. The term does not include the exercise of any right or power, including use, distribution, or storage, over any tangible personal property sold to a nonresident donor for delivery outside of the Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via mail or telephone.

"Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as herein defined.

"Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to those activities which are an integral part of the production of a product, including all steps of an integrated manufacturing or mining process, but not including ancillary activities such as general maintenance or administration. When used in relation to mining, it shall refer to the activities specified

above, and in addition, any reclamation activity of the land previously mined by the mining company required by state or federal law.

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

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

§ 58.1-603. Imposition of sales tax.

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

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

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

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

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

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

§ 58.1-604. Imposition of use tax.

There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount of three and one-half percent:

1. Of the cost price of each item or article of tangible personal property used or consumed in this Commonwealth. Tangible personal property which has been acquired for use outside this Commonwealth and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost price if such property is brought within this Commonwealth for use within six months of its acquisition; but if so brought within this Commonwealth six months or more after its acquisition, such property shall be taxed on the basis of the current market value (but not in excess of its cost price) of such property at the time of its first use within this Commonwealth. Such tax shall be based on such proportion of the cost price or current market value as the duration of time of use within this Commonwealth bears to the total useful life of such property (but it shall be presumed in all cases that such property will remain within this Commonwealth for the remainder of its useful life unless convincing evidence is provided to the contrary).

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

3. A transaction taxed under § 58.1-603 shall not also be taxed under this section, nor shall the same transaction be taxed more than once under either section.

4. The use tax shall not apply with respect to the use of any article of tangible personal property brought into this Commonwealth by a nonresident individual, visiting in Virginia, for his personal use, while within this Commonwealth.

~~5. The use tax shall not apply to out-of-state mail order catalog purchases totaling \$100 or less during any calendar year.~~

§ 58.1-608.3. Entitlement to certain sales tax revenues.

A. As used in this section, the following words and terms have the following meanings, unless some other meaning is plainly intended:

"Bonds" means any obligations of a municipality for the payment of money.

"Cost," as applied to any public facility or to extensions or additions to any public facility, includes:

(i) the purchase price of any public facility acquired by the municipality or the cost of acquiring all of the capital stock of the corporation owning the public facility and the amount to be paid to discharge any obligations in order to vest title to the public facility or any part of it in the municipality; (ii) expenses incident to determining the feasibility or practicability of the public facility; (iii) the cost of plans and specifications, surveys and estimates of costs and of revenues; (iv) the cost of all land, property, rights, easements and franchises acquired; (v) the cost of improvements, property or equipment; (vi) the cost of engineering, legal and other professional services; (vii) the cost of

construction or reconstruction; (viii) the cost of all labor, materials, machinery and equipment; (ix) financing charges; (x) interest before and during construction and for up to one year after completion of construction; (xi) start-up costs and operating capital; (xii) payments by a municipality of its share of the cost of any multi-jurisdictional public facility; (xiii) administrative expense; (xiv) any amounts to be deposited to reserve or replacement funds; and (xv) other expenses as may be necessary or incident to the financing of the public facility. Any obligation or expense incurred by the public facility in connection with any of the foregoing items of cost may be regarded as a part of the cost.

"Municipality" means any county, city, town, authority, commission, or other public entity.

"Public facility" means (i) any auditorium, coliseum, convention center, or conference center, which is owned by a Virginia county, city, town, authority, or other public entity and where exhibits, meetings, conferences, conventions, seminars, or similar public events may be conducted; (ii) any hotel which is owned by a foundation whose sole purpose is to benefit a state-supported university and which is attached to and is an integral part of such facility, together with any lands reasonably necessary for the conduct of the operation of such events; or (iii) any hotel which is attached to and is an integral part of such facility. However, such public facility must be located in a city with a population of at least 24,200 but no more than 24,500 as determined by the 1990 United States Census, at least 50,000 but no more than 52,500, at least 95,000 but no more than 105,000, or at least 130,000 but no more than 135,000. Any property, real, personal, or mixed, which is necessary or desirable in connection with any such auditorium, coliseum, convention center, or conference center, including, without limitation, facilities for food preparation and serving, parking facilities, and administration offices, is encompassed within this definition. However, structures commonly referred to as "shopping centers" or "malls" shall not constitute a public facility hereunder. In addition, only a new public facility, or a public facility which will undergo a substantial and significant renovation or expansion, shall be eligible under subsection B of this section. A new public facility is one whose construction began after December 31, 1991. A substantial and significant renovation entails a project whose cost is at least fifty percent of the original cost of the facility being renovated and shall have begun after December 31, 1991. A substantial and significant expansion entails an increase in floor space of at least fifty percent over that existing in the preexisting facility and shall have begun after December 31, 1991.

"Sales tax revenues" means such tax collections realized under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) of Title 58.1, as limited herein. "Sales tax revenues" does not include ~~the revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly which shall be paid to the Transportation Trust Fund as defined in § 33.1-23.03-1, the proportionate amount of such revenues distributed to the Transportation Trust Fund pursuant to subsection A of § 58.1-638~~ nor shall it include ~~the one percent of the state sales and use tax revenue proportionate amount of such revenues distributed among the counties and cities of the Commonwealth pursuant to subsection D of § 58.1-638~~ ~~on the basis of school school-age population.~~

B. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1, 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but before July 1, 2001, (iv) on or after July 1, 2000, but before July 1, 2003, or (v) on or after July 1, 2001, but before July 1, 2004, to pay the cost, or portion thereof, of any public facility shall be entitled to all sales tax revenues generated by transactions taking place in such public facility. Such entitlement shall continue for the lifetime of such bonds, which entitlement shall not exceed thirty years, and all such sales tax revenues shall be applied to repayment of the bonds. The State Comptroller shall remit such sales tax revenues to the municipality on a quarterly basis, subject to such reasonable processing delays as may be required by the Department of Taxation to calculate the actual net sales tax revenues derived from the public facility. The State Comptroller shall make such remittances to eligible municipalities, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). No such remittances shall be made until construction is completed and, in the case of a renovation or expansion, until the governing body of the municipality has certified that the renovation or expansion is completed.

C. Nothing in this section shall be construed as authorizing the pledging of the faith and credit of the Commonwealth of Virginia, or any of its revenues, for the payment of any bonds. Any appropriation made pursuant to this section shall be made only from sales tax revenues derived from the public facility for which bonds may have been issued to pay the cost, in whole or in part, of such public facility.

§ 58.1-609.1. Exemptions.

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

1. Fuels which are subject to the tax imposed by Chapter 22 (§ 58.1-2200 et seq.) of this title. Persons who are refunded any such fuel tax shall, however, be subject to the tax imposed by this chapter, unless such taxes would be specifically exempted pursuant to any provision of this section.

- 428 2. Motor vehicles, trailers, semitrailers, mobile homes and travel trailers.  
429 3. Gas, electricity, or water when delivered to consumers through mains, lines, or pipes.  
430 4. Tangible personal property for use or consumption by the Commonwealth, any political  
431 subdivision of the Commonwealth, or the United States. This exclusion shall not apply to sales and  
432 leases to privately owned financial and other privately owned corporations chartered by the United  
433 States. Further, this exemption shall not apply to tangible personal property which is acquired by the  
434 Commonwealth or any of its political subdivisions and then transferred to private businesses for their  
435 use in a facility or real property improvement to be used by a private entity or for nongovernmental  
436 purposes other than tangible personal property acquired by the Herbert H. Bateman Advanced  
437 Shipbuilding and Carrier Integration Center and transferred to a Qualified Shipbuilder as defined in the  
438 third enactment of Chapter 790 of the 1998 Acts of the General Assembly.  
439 5. Aircraft subject to tax under Chapter 15 (§ 58.1-1500 et seq.) of this title.  
440 6. Motor fuels and alternative fuels for use in a commercial watercraft upon which a fuel tax is  
441 refunded pursuant to § 58.1-2259.  
442 7. Sales by a government agency of the official flags of the United States, the Commonwealth of  
443 Virginia, or of any county, city or town.  
444 8. Materials furnished by the State Board of Elections pursuant to §§ 24.2-404 through 24.2-407.  
445 9. Watercraft as defined in § 58.1-1401.  
446 10. Tangible personal property used in and about a marine terminal under the supervision of the  
447 Virginia Port Authority for handling cargo, merchandise, freight and equipment. This exemption shall  
448 apply to agents, lessees, sublessees or users of tangible personal property owned by or leased to the  
449 Virginia Port Authority and to property acquired or used by the Authority or by a nonstock, nonprofit  
450 corporation that operates a marine terminal or terminals on behalf of the Authority.  
451 11. Sales by prisoners confined in state correctional facilities of artistic products personally made by  
452 the prisoners as authorized by § 53.1-46.  
453 12. Tangible personal property for use or consumption by the Virginia Department for the Blind and  
454 Vision Impaired or any nominee, as defined in § 51.5-60, of such Department.  
455 13. [Expired.]  
456 14. Tangible personal property sold to residents and patients of the Virginia Veterans Care Center at  
457 a canteen operated by the Department of Veterans Services.  
458 15. Tangible personal property for use or consumption by any nonprofit organization whose members  
459 include the Commonwealth and other states and which is organized for the purpose of fostering  
460 interstate cooperation and excellence in government.  
461 16. Tangible personal property purchased for use or consumption by any soil and conservation  
462 district which is organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter  
463 5 of Title 10.1.  
464 17. (i) *Industrial materials for future processing, manufacturing, refining, or conversion into articles*  
465 *of tangible personal property for resale where such industrial materials either enter into the production*  
466 *of or become a component part of the finished product; (ii) industrial materials that are coated upon or*  
467 *impregnated into the product at any stage of its being processed, manufactured, refined, or converted*  
468 *for resale; (iii) machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy,*  
469 *or supplies, used directly in processing, manufacturing, refining, mining or converting products for sale*  
470 *or resale; (iv) materials, containers, labels, sacks, cans, boxes, drums or bags for future use for*  
471 *packaging tangible personal property for shipment or sale; or (v) equipment, printing or supplies used*  
472 *directly to produce a publication described in subdivision 3 of former § 58.1-609.6 whether it is*  
473 *ultimately sold at retail or for resale or distribution at no cost. Machinery, tools and equipment, or*  
474 *repair parts therefor or replacements thereof, shall be exempt if the preponderance of their use is*  
475 *directly in processing, manufacturing, refining, mining or converting products for sale or resale. The*  
476 *provisions of this subsection do not apply to the drilling, extraction, refining, or processing of oil, gas,*  
477 *natural gas and coalbed methane gas.*  
478 18. *Food purchased for human consumption. As used in this subsection, "food purchased for human*  
479 *consumption" has the same meaning as "food" defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012,*  
480 *as amended, and federal regulations adopted pursuant to that Act, except it shall not include seeds and*  
481 *plants that produce food for human consumption. For the purpose of this section, "food purchased for*  
482 *human consumption" shall not include food sold by any retail establishment where the gross receipts*  
483 *derived from the sale of food prepared by such retail establishment for immediate consumption on or off*  
484 *the premises of the retail establishment constitute more than 80 percent of the total gross receipts of*  
485 *that retail establishment, including but not limited to motor fuel purchases, regardless of whether such*  
486 *prepared food is consumed on the premises of that retail establishment. For purposes of this section,*  
487 *"retail establishment" means each place of business for which any "dealer," as defined in § 58.1-612, is*  
488 *required to apply for and receive a certificate of registration pursuant to § 58.1-613.*  
489 19. *Services not involving an exchange of tangible personal property that provide access to or use of*



the international network of computer systems commonly known as the Internet and any other related electronic communication service.

20. An occasional sale, as defined in § 58.1-602.

§ 58.1-610. (Effective July 1, 2004) Contractors.

A. Any person who contracts orally, in writing, or by purchase order, to perform construction, reconstruction, installation, repair, or any other service with respect to real estate or fixtures thereon, and in connection therewith to furnish tangible personal property, shall be deemed to have purchased such tangible personal property for use or consumption. Any sale, distribution, or lease to or storage for such person shall be deemed a sale, distribution, or lease to or storage for the ultimate consumer and not for resale, and the dealer making the sale, distribution, or lease to or storage for such person shall be obligated to collect the tax to the extent required by this chapter.

B. Any person who contracts to perform services in this Commonwealth and is furnished tangible personal property for use under the contract by the person, or his agent or representative, for whom the contract is performed, and a sales or use tax has not been paid to this Commonwealth by the person supplying the tangible personal property, shall be deemed to be the consumer of the tangible personal property so used, and shall pay a use tax based on the fair market value of the tangible personal property so used, irrespective of whether or not any right, title or interest in the tangible personal property becomes vested in the contractor. This subsection, however, shall not apply to the industrial materials exclusion or the other industrial exclusions set out in § 58.1-609.3, including those set out in subdivisions 2, 3 and 4 thereof; the media-related exemptions set out in subdivision 2 of § 58.1-609.6; subdivision 17 of § 58.1-609.1 or the governmental exclusions set out in subdivision 4 of § 58.1-609.1; the agricultural exclusions set forth in subdivision 1 of § 58.1-609.2; or the exclusion for baptistries set forth in former subdivision 2 of § 58.1-609.8.

C. Any person who contracts orally, in writing, or by purchase order to perform any service in the nature of equipment rental, and the principal part of that service is the furnishing of equipment or machinery which will not be under the exclusive control of the contractor, shall be liable for the sales or use tax on the gross proceeds from such contract to the same extent as the lessor of tangible personal property.

D. Tangible personal property incorporated in real property construction which loses its identity as tangible personal property shall be deemed to be tangible personal property used or consumed within the meaning of this section. Any person selling fences, venetian blinds, window shades, awnings, storm windows and doors, locks and locking devices, floor coverings (as distinguished from the floors themselves), cabinets, kitchen equipment, window air conditioning units or other like or comparable items, shall be deemed to be a retailer of such items and not a using or consuming contractor with respect to them, whether he sells to and installs such items for contractors or other customers and whether or not such retailer fabricates such items.

E. Nothing in this section shall be construed to (i) affect or limit the resale exclusion provided for in this chapter, or the industrial materials and other industrial exclusions set out in § 58.1-609.3, the exclusion for baptistries set out in former subdivision 2 of § 58.1-609.8, or the partial exclusion for the sale of modular buildings as set out in § 58.1-610.1 subdivision 17 of § 58.1-609.1, or (ii) impose any sales or use tax with respect to the use in the performance of contracts with the United States, this Commonwealth, or any political subdivision thereof, of tangible personal property owned by a governmental body which actually is not used or consumed in the performance thereof.

F. Notwithstanding the other provisions of this section, any person engaged in the business of furnishing and installing locks and locking devices shall be deemed a retailer of such items and not a using or consuming contractor with respect to them.

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

A. The tax levied by §§ 58.1-603 and 58.1-604 shall be collectible from all persons who are dealers, as hereinafter defined, and who have sufficient contact with the Commonwealth to qualify under subsections B and C hereof.

B. The term "dealer," as used in this chapter, shall include every person who:

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

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

3. Sells at retail, or who offers for sale at retail, or who has in his possession for sale at retail, or for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth, *services or* tangible personal property;

4. Has sold at retail, used, consumed, distributed, *furnished*, or stored for use or consumption in this Commonwealth, *services or* tangible personal property and who cannot prove that the tax levied by this

chapter has been paid on the sale at retail, the use, consumption, distribution, or storage of such *services or tangible personal property*;

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

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

7. As a representative, agent, or solicitor, of an out-of-state principal, solicits, receives and accepts orders from persons in this Commonwealth for future delivery and whose principal refuses to register as a dealer under § 58.1-613; or

8. Becomes liable to and owes this Commonwealth any amount of tax imposed by this chapter, whether he holds, or is required to hold, a certificate of registration under § 58.1-613.

C. A dealer shall be deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 if he:

1. Maintains or has within this Commonwealth, directly or through an agent or subsidiary, an office, warehouse, or place of business of any nature;

2. Solicits business in this Commonwealth by employees, independent contractors, agents or other representatives;

3. Advertises in newspapers or other periodicals printed and published within this Commonwealth, on billboards or posters located in this Commonwealth, or through materials distributed in this Commonwealth by means other than the United States mail;

4. Makes regular deliveries of tangible personal property within this Commonwealth by means other than common carrier or regularly causes *services to be rendered within this Commonwealth more than 12 times during a calendar year*. A person shall be deemed to be making regular deliveries hereunder if vehicles other than those operated by a common carrier enter this Commonwealth more than twelve times during a calendar year to deliver goods sold by him;

5. Solicits business in this Commonwealth on a continuous, regular, seasonal, or systematic basis by means of advertising that is broadcast or relayed from a transmitter within this Commonwealth or distributed from a location within this Commonwealth;

6. Solicits business in this Commonwealth by mail, if the solicitations are continuous, regular, seasonal, or systematic and if the dealer benefits from any banking, financing, debt collection, or marketing activities occurring in this Commonwealth or benefits from the location in this Commonwealth of authorized installation, servicing, or repair facilities;

7. Is owned or controlled by the same interests which own or control a business located within this Commonwealth;

8. Has a franchisee or licensee operating under the same trade name in this Commonwealth if the franchisee or licensee is required to obtain a certificate of registration under § 58.1-613; or

9. Owns tangible personal property that is rented or leased to a consumer in this Commonwealth, or offers tangible personal property, on approval, to consumers in this Commonwealth, *or rents, leases or offers, on approval, services to consumers in this Commonwealth*.

D. Notwithstanding any other provision of this section, the following shall not be considered to determine whether a person who has contracted with a commercial printer for printing in the Commonwealth is a "dealer" and whether such person has sufficient contact with the Commonwealth to be required to register under § 58.1-613:

1. The ownership or leasing by that person of tangible or intangible property located at the Virginia premises of the commercial printer which is used solely in connection with the printing contract with the person;

2. The sale by that person of property of any kind printed at and shipped or distributed from the Virginia premises of the commercial printer;

3. Activities in connection with the printing contract with the person performed by or on behalf of that person at the Virginia premises of the commercial printer; and

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

ED. In addition to the jurisdictional standards contained in subsection C of this section, nothing contained herein (other than subsection D) shall limit any authority which this Commonwealth may enjoy under the provisions of federal law or an opinion of the United States Supreme Court to require the collection of sales and use taxes by any dealer who regularly or systematically solicits sales within this Commonwealth. Furthermore, nothing contained in subsection C shall require any broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher which broadcasts, publishes, or displays or distributes paid commercial advertising in this Commonwealth which is intended to be disseminated primarily to consumers located in this Commonwealth to report or impose any liability to pay any tax imposed under this chapter solely because such broadcaster, printer, outdoor advertising

firm, advertising distributor, or publisher accepted such advertising contracts from out-of-state advertisers or sellers.

§ 58.1-615. Returns by dealers.

A. Every dealer required to collect or pay the sales or use tax shall, on or before the twentieth day of the month following the month in which the tax shall become effective, transmit to the Tax Commissioner a return showing the gross sales, gross proceeds, or cost price, as the case may be, arising from all transactions taxable under this chapter during the preceding calendar month, and thereafter a like return shall be prepared and transmitted to the Tax Commissioner by every dealer on or before the twentieth day of each month, for the preceding calendar month. In the case of dealers regularly keeping books and accounts on the basis of an annual period which varies fifty-two to fifty-three weeks, the Tax Commissioner may make rules and regulations for reporting consistent with such accounting period.

Notwithstanding any other provision of this chapter, a dealer may be required by the Tax Commissioner to file sales or use tax returns on an accounting period less frequent than monthly when, in the opinion of the Tax Commissioner, the administration of the taxes imposed by this chapter would be enhanced. If a dealer is required to file other than monthly, each such return shall be due on or before the twentieth day of the month following the close of the period. Each such return shall contain all information required for monthly returns.

A sales or use tax return shall be filed by each registered dealer even though the dealer is not liable to remit to the Tax Commissioner any tax for the period covered by the return.

B. 1. In addition to the amounts required under the provisions of this section and § 58.1-616, any dealer as defined by § 58.1-612 or direct payment permit holder pursuant to § 58.1-624, with taxable sales and purchases of \$1,300,000 or greater for the twelve-month period beginning July 1, and ending June 30 of the immediately preceding calendar year, shall be required to make a payment equal to 90 percent of the sales and use tax liability for the previous June. Such tax payments shall be made on or before the 30th day of June, if payment is made by electronic funds transfer, as defined in § 58.1-202.1. If payment is made by other than electronic funds transfer, such payment shall be made on or before the 25th day of June. For purposes of this provision, taxable sales or purchases shall be computed without regard to the number of certificates of registration held by the dealer. Every dealer or direct payment permit holder shall be entitled to a credit for the payment under this subsection on the return for June of the current year due July 20. The provisions of this subsection shall not apply to persons who are required to file only a Form ST-7, Consumer User Tax Return.

2. In lieu of the penalties provided in § 58.1-635, except with respect to fraudulent returns, failure to make a timely payment or full payment of the sales and use tax liability as provided in this subsection shall subject the dealer or direct payment permit holder to a penalty of six percent of the amount of tax underpayment that should have been properly paid to the Tax Commissioner. Interest will accrue as provided in § 58.1-15. The payment required by this subsection shall become delinquent on the first day following the due date set forth in this subsection if not paid.

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

A. All sales or leases are subject to the tax until the contrary is established. The burden of proving that a sale, distribution, or lease of services or tangible personal property, or the storage of tangible personal property is not taxable is upon the dealer unless he takes from the taxpayer a certificate to the effect that the property is exempt under this chapter.

B. (Effective until July 1, 2004) The certificate mentioned in this section shall relieve the person who takes such certificate from any liability for the payment or collection of the tax, except upon notice from the Tax Commissioner that such certificate is no longer acceptable. Such certificate shall be signed by and bear the name and address of the taxpayer; shall indicate the number of the certificate of registration, if any, issued to the taxpayer; shall indicate the general character of the tangible personal property sold, distributed, leased, or stored, or to be sold, distributed, leased, or stored under a blanket exemption certificate; and shall be substantially in such form as the Tax Commissioner may prescribe. If an exemption pertains to a nonprofit organization, other than a nonprofit church, that has qualified for a sales and use tax exemption under §§ 58.1-609.4, 58.1-609.7, 58.1-609.8, 58.1-609.9 or § 58.1-609.10, the exemption certificate shall be valid until the scheduled expiration of the applicable provision of such section, which expiration date shall be stated on the exemption certificate or certificate of registration issued to the organization.

B. (Effective July 1, 2004) The certificate mentioned in this section shall relieve the person who takes such certificate from any liability for the payment or collection of the tax, except upon notice from the Tax Commissioner that such certificate is no longer acceptable. Such certificate shall be signed by and bear the name and address of the taxpayer; shall indicate the number of the certificate of registration, if any, issued to the taxpayer; shall indicate the general character of the tangible personal property sold, distributed, leased, or stored, or to be sold, distributed, leased, or stored under a blanket

674 exemption certificate; and shall be substantially in such form as the Tax Commissioner may prescribe. If  
 675 an exemption pertains to a nonprofit organization, other than a nonprofit church, that has qualified for a  
 676 sales and use tax exemption under § 58.1-609.11, the exemption certificate shall be valid until the  
 677 scheduled expiration date stated on the exemption certificate.

678 C. If a taxpayer who gives a certificate under this section makes any use of the property other than  
 679 an exempt use or retention, demonstration, or display while holding the property for resale, distribution,  
 680 or lease in the regular course of business, such use shall be deemed a taxable sale by the taxpayer as of  
 681 the time the property or service is first used by him, and the cost of the property to him shall be  
 682 deemed the sales price of such retail sale. If the sole use of the property other than retention,  
 683 demonstration, or display in the regular course of business is the rental of the property while holding it  
 684 for sale, distribution, or lease, the taxpayer may elect to pay the tax on the amount of the rental charged,  
 685 rather than the cost of the property to him.

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

692 § 58.1-627. Bracket system for tax at rate of three ~~and one-half~~ percent.

693 The ~~following~~ Tax Commissioner shall prepare brackets of prices that shall be used for the  
 694 collection of the tax imposed by this chapter: ~~on sales of less than five dollars.~~

695	_____	\$0.00	to	_____	\$0.14	no tax
696	_____	.15	to	_____	.42	1¢ tax
697	_____	.43	to	_____	.71	2¢ tax
698	_____	.72	to	_____	.99	3¢ tax
699	_____	1.00	to	_____	1.28	4¢ tax
700	_____	1.29	to	_____	1.57	5¢ tax
701	_____	1.58	to	_____	1.85	6¢ tax
702	_____	1.86	to	_____	2.14	7¢ tax
703	_____	2.15	to	_____	2.42	8¢ tax
704	_____	2.43	to	_____	2.71	9¢ tax
705	_____	2.72	to	_____	2.99	10¢ tax
706	_____	3.00	to	_____	3.28	11¢ tax
707	_____	3.29	to	_____	3.57	12¢ tax
708	_____	3.58	to	_____	3.85	13¢ tax
709	_____	3.86	to	_____	4.14	14¢ tax
710	_____	4.15	to	_____	4.42	15¢ tax
711	_____	4.43	to	_____	4.71	16¢ tax
712	_____	4.72	to	_____	5.00	17¢ tax

713  
 714 On transactions over five dollars, the tax shall be computed at three ~~and one-half~~ percent, one-half  
 715 cent or more being treated as one cent. If a dealer can show to the satisfaction of the Tax Commissioner  
 716 that more than eighty-five percent of the total dollar volume of his gross taxable sales during the taxable  
 717 month was from individual sales at prices of ten cents or less each, and that he was unable to adjust his  
 718 prices in such manner as to prevent the economic incidence of the sales tax from falling on him, the  
 719 Tax Commissioner shall determine the proper tax liability of the dealer based on that portion of the  
 720 dealer's gross taxable sales which was from sales at prices of eleven cents or more.

721 § 58.1-628. Bracket system for combined state and local tax.

722 The ~~following~~ Tax Commissioner shall prepare brackets of prices that shall be used for the  
 723 collection of the combined state and local tax: ~~on sales less than five dollars.~~

724	_____	\$0.00	to	_____	\$0.11	no tax
725	_____	.12	to	_____	.33	1¢ tax
726	_____	.34	to	_____	.55	2¢ tax
727	_____	.56	to	_____	.77	3¢ tax
728	_____	.78	to	_____	.99	4¢ tax
729	_____	1.00	to	_____	1.22	5¢ tax
730	_____	1.23	to	_____	1.44	6¢ tax
731	_____	1.45	to	_____	1.66	7¢ tax
732	_____	1.67	to	_____	1.88	8¢ tax

733	1.89	to	2.11	9¢ tax
734	2.12	to	2.33	10¢ tax
735	2.34	to	2.55	11¢ tax
736	2.56	to	2.77	12¢ tax
737	2.78	to	2.99	13¢ tax
738	3.00	to	3.22	14¢ tax
739	3.23	to	3.44	15¢ tax
740	3.45	to	3.66	16¢ tax
741	3.67	to	3.88	17¢ tax
742	3.89	to	4.11	18¢ tax
743	4.12	to	4.33	19¢ tax
744	4.34	to	4.55	20¢ tax
745	4.56	to	4.77	21¢ tax
746	4.78	to	5.00	22¢ tax

On transactions over five dollars, the tax shall be computed at four ~~and one-half~~ percent, one half cent or more being treated as one cent. The foregoing bracket system shall not relieve the dealer from the duty and liability to remit an amount equal to four and one-half percent of his gross taxable sales as provided in this chapter. If the dealer, however, can show to the satisfaction of the Tax Commissioner that more than eighty-five percent of the total dollar volume of his gross taxable sales during the taxable month was from individual sales at prices of ten cents or less each and that he was unable to adjust his prices in such manner as to prevent the economic incidence of the sales tax from falling on him, the Tax Commissioner shall determine the proper tax liability of the dealer based on that portion of the dealer's gross taxable sales which was from sales at prices of eleven cents or more.

§ 58.1-629. Sale of business.

If any dealer liable for any tax, penalty, or interest levied hereunder sells out his business or stock of goods or quits the business, he shall make a final return and payment within fifteen days after the date of selling or quitting the business. His successors or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of such taxes, penalties, and interest due and unpaid until such former owner produces a receipt from the Tax Commissioner showing that they have been paid or a certificate stating that no taxes, penalties, or interest is due. If the purchaser of a business or stock of goods fails to withhold the purchase money as above provided, he shall be personally liable for the payment of the taxes, penalties, and interest due and unpaid on account of the operation of the business by any former owner. ~~Nothing herein shall be deemed to qualify or limit the exemption as to such a sale as is covered by subdivision 2 of § 58.1-609.10.~~

§ 58.1-638. Disposition of state sales and use tax revenue; Transportation Trust Fund; localities' share; Game Protection Fund.

A. The Comptroller shall designate a specific revenue code number for all the state sales and use tax revenue collected under the preceding sections of this chapter.

1. ~~The~~ *Until July 1, 2004*, sales and use tax revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided in this section, to the Transportation Trust Fund as defined in § 33.1-23.03:1. *Beginning July 1, 2004, of the total state sales and use tax revenue generated annually, 10.75 percent shall be paid, in the manner hereinafter provided in this section, to the Transportation Trust Fund as defined in § 33.1-23.03:1.* Of the funds paid to the Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund as provided in this section; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund as provided in this section. The Fund's share of such net revenue shall be computed as an estimate of the net revenue to be received into the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the Fund on the last day of each month.

2. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Port Fund.

a. The Commonwealth Port Fund shall be established on the books of the Comptroller and the funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it. Funds may be paid to any authority, locality or commission for the purposes hereinafter specified.

b. The amounts allocated pursuant to this section shall be allocated by the Commonwealth

793 Transportation Board to the Board of Commissioners of the Virginia Port Authority to be used to  
794 support port capital needs and the preservation of existing capital needs of all ocean, river, or tributary  
795 ports within the Commonwealth.

796 c. Commonwealth Port Fund revenue shall be allocated by the Board of Commissioners to the  
797 Virginia Port Authority in order to foster and stimulate the flow of maritime commerce through the  
798 ports of Virginia, including but not limited to the ports of Richmond, Hopewell and Alexandria.

799 3. There is hereby created in the Department of the Treasury a special nonreverting fund which shall  
800 be part of the Transportation Trust Fund and which shall be known as the Commonwealth Airport Fund.  
801 The Commonwealth Airport Fund shall be established on the books of the Comptroller and any funds  
802 remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in  
803 the Fund. Interest earned on the funds shall be credited to the Fund. The funds so allocated shall be  
804 allocated by the Commonwealth Transportation Board to the Virginia Aviation Board. The funds shall  
805 be allocated by the Virginia Aviation Board to any Virginia airport which is owned by the  
806 Commonwealth, a governmental subdivision thereof, or a private entity to which the public has access  
807 for the purposes enumerated in § 5.1-2.16, or is owned or leased by the Metropolitan Washington  
808 Airports Authority (MWAA), as follows:

809 Any new funds in excess of \$12.1 million which are available for allocation by the Virginia Aviation  
810 Board from the Commonwealth Transportation Fund, shall be allocated as follows: sixty percent to  
811 MWAA, up to a maximum annual amount of two million dollars, and forty percent to air carrier airports  
812 as provided in subdivision A 3 a. Except for adjustments due to changes in enplaned passengers, no air  
813 carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision A 3 a  
814 than it received in fiscal year 1994-1995.

815 Of the remaining amount:

816 a. Forty percent of the funds shall be allocated to air carrier airports, except airports owned or leased  
817 by MWAA, based upon the percentage of enplanements for each airport to total enplanements at all air  
818 carrier airports, except airports owned or leased by MWAA. No air carrier airport sponsor, however,  
819 shall receive less than \$50,000 nor more than \$2 million per year from this provision.

820 b. Forty percent of the funds shall be allocated by the Aviation Board for air carrier and reliever  
821 airports on a discretionary basis, except airports owned or leased by MWAA.

822 c. Twenty percent of the funds shall be allocated by the Aviation Board for general aviation airports  
823 on a discretionary basis.

824 4. There is hereby created in the Department of the Treasury a special nonreverting fund which shall  
825 be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Mass  
826 Transit Fund.

827 a. The Commonwealth Mass Transit Fund shall be established on the books of the Comptroller and  
828 any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but  
829 shall remain in the Fund. Interest earned on such funds shall be credited to the Fund. Funds may be  
830 paid to any local governing body, transportation district commission, or public service corporation for  
831 the purposes hereinafter specified.

832 b. The amounts allocated pursuant to this section shall be used to support the public transportation  
833 administrative costs and the costs borne by the locality for the purchase of fuels, lubricants, tires and  
834 maintenance parts and supplies for public transportation at a state share of eighty percent in 2002 and  
835 ninety-five percent in 2003 and succeeding years. These amounts may be used to support up to  
836 ninety-five percent of the local or nonfederal share of capital project costs for public transportation and  
837 ridesharing equipment, facilities, and associated costs. Capital costs may include debt service payments  
838 on local or agency transit bonds. The term "borne by the locality" means the local share eligible for  
839 state assistance consisting of costs in excess of the sum of fares and other operating revenues plus  
840 federal assistance received by the locality.

841 c. Commonwealth Mass Transit Fund revenue shall be allocated by the Commonwealth  
842 Transportation Board as follows:

843 (1) Funds for special programs, which shall include ridesharing, experimental transit, and technical  
844 assistance, shall not exceed 1.5 percent of the Fund.

845 (2) The Board may allocate these funds to any locality or planning district commission to finance up  
846 to eighty percent of the local share of all costs associated with the development, implementation, and  
847 continuation of ridesharing programs.

848 (3) Funds allocated for experimental transit projects may be paid to any local governing body,  
849 transportation district commission, or public corporation or may be used directly by the Department of  
850 Rail and Public Transportation for the following purposes:

851 (a) To finance up to ninety-five percent of the capital costs related to the development,  
852 implementation and promotion of experimental public transportation and ridesharing projects approved  
853 by the Board.

854 (b) To finance up to ninety-five percent of the operating costs of experimental mass transportation

and ridesharing projects approved by the Board for a period of time not to exceed twelve months.

(c) To finance up to ninety-five percent of the cost of the development and implementation of any other project designated by the Board where the purpose of such project is to enhance the provision and use of public transportation services.

d. Funds allocated for public transportation promotion and operation studies may be paid to any local governing body, planning district commission, transportation district commission, or public transit corporation, or may be used directly by the Department of Rail and Public Transportation for the following purposes and aid of public transportation services:

(1) At the approval of the Board to finance a program administered by the Department of Rail and Public Transportation designed to promote the use of public transportation and ridesharing throughout Virginia.

(2) To finance up to fifty percent of the local share of public transportation operations planning and technical study projects approved by the Board.

e. At least 73.5 percent of the Fund shall be distributed to each transit property in the same proportion as its operating expenses bear to the total statewide operating expenses and shall be spent for the purposes specified in subdivision 4 b.

f. The remaining twenty-five percent shall be distributed for capital purposes on the basis of ninety-five percent of the nonfederal share for federal projects and ninety-five percent of the total costs for nonfederal projects. In the event that total capital funds available under this subdivision are insufficient to fund the complete list of eligible projects, the funds shall be distributed to each transit property in the same proportion that such capital expenditure bears to the statewide total of capital projects.

g. There is hereby created in the Department of the Treasury a special nonreverting fund known as the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be established on the books of the Comptroller and consist of such moneys as are appropriated to it by the General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given, bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political subdivision, another public entity created by an act of the General Assembly, or a private entity as defined in § 56-557 and for purposes as enumerated in subdivision 4c of § 33.1-269 or expended by the Department of Rail and Public Transportation for the purposes specified in this subdivision. Revenues of the Commonwealth Transit Capital Fund shall be used to support capital expenditures involving the establishment, improvement, or expansion of public transportation services through specific projects approved by the Commonwealth Transportation Board. Projects financed by the Commonwealth Transit Capital Fund shall receive local, regional or private funding for at least twenty percent of the nonfederal share of the total project cost.

5. Funds for Metro shall be paid by the Northern Virginia Transportation Commission (NVTC) to the Washington Metropolitan Area Transit Authority (WMATA) and be a credit to the Counties of Arlington and Fairfax and the Cities of Alexandria, Falls Church and Fairfax in the following manner:

a. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality using WMATA's capital formula shall be paid first by NVTC. NVTC shall use ninety-five percent state aid for these payments.

b. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall include twenty percent of annual local bus capital expenses. Hold harmless protections and obligations for NVTC's jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

Appropriations from the Commonwealth Mass Transit Fund are intended to provide a stable and reliable source of revenue as defined by Public Law 96-184.

B. ~~The~~ *Until July 1, 2004*, sales and use tax revenue generated by a one percent sales and use tax shall be distributed among the counties and cities of this Commonwealth in the manner provided in subsections C and D. *Beginning July 1, 2004, of the total state sales and use tax revenue generated annually, 21.5 percent shall be distributed among the counties and cities of this Commonwealth in the manner provided in subsections C and D.*

C. The localities' share of the net revenue distributable under this section among the counties and cities shall be apportioned by the Comptroller and distributed among them by warrants of the Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month during which the net revenue was received into the state treasury. The distribution of the localities' share

916 of such net revenue shall be computed with respect to the net revenue received into the state treasury  
917 during each month, and such distribution shall be made as soon as practicable after the close of each  
918 such month.

919 D. The net revenue so distributable among the counties and cities shall be apportioned and  
920 distributed upon the basis as certified to the Comptroller by the Department of Education, of the number  
921 of children in each county and city according to the most recent statewide census of school population  
922 taken by the Department of Education pursuant to § 22.1-284, as adjusted in the manner hereinafter  
923 provided. No special school population census, other than a statewide census, shall be used as the basis  
924 of apportionment and distribution except that in any calendar year in which a statewide census is not  
925 reported, the Department of Education shall adjust such school population figures by the same percent of  
926 annual change in total population estimated for each locality by The Center for Public Service. The  
927 revenue so apportionable and distributable is hereby appropriated to the several counties and cities for  
928 maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the  
929 operation of the public schools, which shall be considered as funds raised from local resources. In any  
930 county, however, wherein is situated any incorporated town constituting a school division, the county  
931 treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest  
932 payments, or other expenses incurred in the operation of the public schools, the proper proportionate  
933 amount received by him in the ratio that the school population of such town bears to the school  
934 population of the entire county. If the school population of any city or of any town constituting a school  
935 division is increased by the annexation of territory since the last preceding school population census,  
936 such increase shall, for the purposes of this section, be added to the school population of such city or  
937 town as shown by the last such census and a proper reduction made in the school population of the  
938 county or counties from which the annexed territory was acquired.

939 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a  
940 two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of  
941 hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment,  
942 wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the  
943 most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of  
944 Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated  
945 Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used,  
946 in part, to defray the cost of law enforcement. Not later than thirty days after the close of each quarter,  
947 the Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be  
948 dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established  
949 under § 29.1-101.1, is equal to or in excess of \$35 million, any portion of sales and use tax revenues  
950 that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess  
951 of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board  
952 and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the  
953 balance in the Capital Improvement Fund is less than \$35 million.

954 F. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be  
955 corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

956 G. The term "net revenue," as used in this section, means the gross revenue received into the general  
957 fund or the Transportation Trust Fund of the state treasury under the preceding sections of this chapter,  
958 less refunds to taxpayers.

959 § 58.1-901. Definitions.

960 As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

961 "Decedent" means a deceased person.

962 "Federal credit" means the maximum amount of the credit for state death taxes allowable by § 2011  
963 of the United States Internal Revenue Code of 1954, as amended or renumbered, or successor provision,  
964 in respect to a decedent's taxable estate. The term "maximum amount" shall be construed as to take full  
965 advantage of such credit as the laws of the United States may allow. ~~In no event, however, shall such~~  
966 ~~amount be less than the federal credit allowable by § 2011 of the Internal Revenue Code as it existed on~~  
967 ~~January 1, 1978.~~

968 "Gross estate" means "gross estate" as defined in § 2031 of the United States Internal Revenue Code  
969 of 1954, as amended or renumbered, or the successor provision of the laws of the United States.

970 "Nonresident" means a decedent who was domiciled outside of the Commonwealth of Virginia at his  
971 death.

972 "Personal representative" means the personal representative of the estate of the decedent, appointed,  
973 qualified and acting within the Commonwealth, or, if there is no personal representative appointed,  
974 qualified and acting within the Commonwealth, then any person in actual or constructive possession of  
975 the Virginia gross estate of the decedent.

976 "Resident" means a decedent who was domiciled in the Commonwealth of Virginia at his death.

977 "State" means any state, territory or possession of the United States and the District of Columbia.



"Taxable estate" means "taxable estate" as defined in § 2051 of the United States Internal Revenue Code of 1954, as amended or renumbered, or the successor provision of the laws of the United States.

"Value" means "value" as finally determined for federal estate tax purposes under the laws of the United States relating to federal estate taxes.

Any reference in this chapter to the laws of the United States relating to federal estate and gift taxes means the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal estate and gift taxes, as the same may be or become effective at any time or from time to time.

§ 58.1-1720. Sales tax on fuel in certain transportation districts.

A. There is hereby levied, in addition to all other taxes imposed on fuels subject to tax under Chapter 21 (§ 58.1-2100 et seq.) of this title, in every county or city which is a member of any transportation district in which a rapid heavy rail commuter mass transportation system operating on an exclusive right-of-way and a bus commuter mass transportation system are owned, operated or controlled, by an agency or a commission as defined in § 15.2-4502, or in any transportation district which is subject to § 15.2-4515 C and which is contiguous to the Northern Virginia Transportation District, a sales tax of two percent of the retail price of such fuels sold within such county or city. As used in this section "retail sale" means a sale to a consumer or to any person for any purpose other than resale.

B. The tax imposed under this section shall be subject to the provisions of the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.), except that ~~the exemption provided for motor vehicle fuels under § 58.1-609.13, and the bracket system provided in such act,~~ shall not be applicable.

§ 58.1-3510.1. Daily rental property tax.

A. The governing body of any county, city or town may levy a tax in an amount not to exceed one percent, in addition to the tax levied pursuant to § 58.1-605, on the gross proceeds of any person engaged in the short-term rental business as defined in § 58.1-3510. "Gross proceeds" means the total amount charged to each person for the rental of daily rental property, excluding any state and local sales tax paid under the provisions of Chapter 6 (§ 58.1-600 et seq.) of this title.

B. Any person engaged in the short-term rental business as defined in § 58.1-3510 shall collect the rental tax from the lessee of the daily rental property at the time of the rental. The lessor of the daily rental property shall transmit a quarterly return to the commissioner of the revenue of the county, city or town wherein the tax is collected, indicating the gross proceeds derived from the short-term rental business. The commissioner of the revenue shall assess the tax due, and the treasurer or director of finance shall collect the daily rental property tax.

C. (Effective until July 1, 2004) Notwithstanding the provisions of subsection B of this section, no tax shall be collected or assessed on (i) rentals by the Commonwealth, any political subdivision of the Commonwealth or the United States or (ii) any rental of durable medical equipment as defined in subdivision 2 of § 58.1-609.7.

C. (Effective July 1, 2004) Notwithstanding the provisions of subsection B, no tax shall be collected or assessed on (i) rentals by the Commonwealth, any political subdivision of the Commonwealth or the United States or (ii) any rental of durable medical equipment as defined in subdivision 4 of ~~§ 58.1-609.10~~. *For purposes of this subsection "durable medical equipment" means equipment that (i) can withstand repeated use, (ii) is primarily and customarily used to serve a medical purpose, (iii) generally is not useful to a person in the absence of illness or injury, and (iv) is appropriate for use in the home.*

§ 58.1-3510.3. (Effective July 1, 2004) Exemptions; penalties.

Provisions in §§ 58.1-609.1 through ~~58.1-609.11~~ of Chapter 6 relating to exemptions, §§ 58.1-635 and 58.1-636 relating to penalties, and § 58.1-625 relating to the manner of collecting the local retail sales and use tax applicable in Chapter 6 (§ 58.1-600 et seq.) of this title, shall apply mutatis mutandis to the daily rental property tax, except that the commissioner of revenue shall assess the tax due, and the treasurer or director of finance shall collect the daily rental property tax, instead of the Department of Taxation. Any other provision in Chapter 6 shall apply if adopted by local ordinance pursuant to § 58.1-3510.1.

§ 58.1-3818. (Effective July 1, 2004 /- Contingent expiration date) Admissions tax in certain counties.

A. Fairfax, Arlington, Dinwiddie, Prince George and Brunswick Counties are hereby authorized to levy a tax on admissions charged for attendance at any event. The tax shall not exceed 10 percent of the amount of charge for admission to any such event. Notwithstanding any other provisions of law, the governing bodies of such counties shall prescribe by ordinance the terms, conditions and amount of such tax and may classify between events conducted for charitable and those conducted for noncharitable purposes.

B. Notwithstanding the provisions of subsection A, any county with a population of at least 27,500

but not more than 28,250 and any county with a population of at least 10,400 but not more than 10,490 as determined by the 1990 United States Census are hereby authorized to levy a tax on admissions charged for attendance at any event as set forth in subsection A.

C. Notwithstanding the provisions of subsection A, any county with a population of at least 12,450 but not more than 12,850 is hereby authorized to levy a tax on admissions charged for attendance at any spectator event; however, a tax shall not be levied on admissions charged to participants in order to participate in any event. The tax shall not exceed 10 percent of the amount of charge for admission to any event. Notwithstanding any other provisions of law, the governing body of such county shall prescribe by ordinance the terms, conditions and amount of such tax and may classify between the events as set forth in § 58.1-3817.

D. Notwithstanding the provisions of subsections A, B and C, any county in which a major league baseball stadium, as defined in § 15.2-5800, is located is hereby authorized to levy (i) a tax on admissions charged at any event at such stadium and (ii) a surcharge on admissions charged for attendance at any event at such stadium if it has a seating capacity of at least 40,000 seats. The tax on admissions shall not exceed 10 percent. Such surcharge shall not exceed two percent of the charge for admissions. Notwithstanding any other provisions of law, the governing bodies of such counties shall prescribe by ordinance the terms, conditions and amounts of such tax and surcharge and may classify between events conducted for charitable and those conducted for noncharitable purposes.

E. Notwithstanding the provisions of subsections A, B, C and D, localities may, by ordinance, elect not to levy an admissions tax on admission to an event, provided that the purpose of the event is solely to raise money for charitable purposes and that the net proceeds derived from the event will be transferred to an entity or entities that are exempt from sales and use tax pursuant to § 58.1-609.11.

§ 58.1-3818. (Contingent effective date) Admissions tax in certain counties.

A. Fairfax, Arlington, Dinwiddie, Prince George and Brunswick Counties are hereby authorized to levy a tax on admissions charged for attendance at any event. The tax shall not exceed 10 percent of the amount of charge for admission to any such event. Notwithstanding any other provisions of law, the governing bodies of such counties shall prescribe by ordinance the terms, conditions and amount of such tax and may classify between events conducted for charitable and those conducted for noncharitable purposes.

B. Notwithstanding the provisions of subsection A, any county with a population of at least 27,500 but not more than 28,250 and any county with a population of at least 10,400 but not more than 10,490 as determined by the 1990 United States Census are hereby authorized to levy a tax on admissions charged for attendance at any event as set forth in subsection A.

C. Notwithstanding the provisions of subsection A, any county with a population of at least 12,450 but not more than 12,850 is hereby authorized to levy a tax on admissions charged for attendance at any spectator event; however, a tax shall not be levied on admissions charged to participants in order to participate in any event. The tax shall not exceed 10 percent of the amount of charge for admission to any event. Notwithstanding any other provisions of law, the governing body of such county shall prescribe by ordinance the terms, conditions and amount of such tax and may classify between the events as set forth in § 58.1-3817.

D. Notwithstanding the provisions of subsections A, B and C, localities may, by ordinance, elect not to levy an admissions tax on admission to an event, provided that the purpose of the event is solely to raise money for charitable purposes and that the net proceeds derived from the event will be transferred to an entity or entities that are exempt from sales and use tax pursuant to § 58.1-609.11.

2. That §§ 58.1-322, 58.1-322.2, 58.1-331 through 58.1-339.10, 58.1-608.1, 58.1-609.2, 58.1-609.3, 58.1-609.5, 58.1-609.6, 58.1-609.9, 58.1-609.10, as it shall become effective, 58.1-609.11, as it shall become effective, 58.1-609.13, 58.1-610.1, 58.1-611.1, and Chapter 37 (§§ 58.1-3700 et seq.) of Title 58.1 of the Code of Virginia are repealed.

3. That the provisions of this act amending § 58.1-901 shall apply to estates of persons who die after December 31, 2004.