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HOUSE BILL NO. 458

Offered January 14, 2004

Prefiled January 13, 2004

A BILL to amend and reenact §§ 58.1-300, 58.1-310, 58.1-311, 58.1-439.13, 58.1-439.14, 58.1-512, 58.1-513, 58.1-603, 58.1-604, 58.1-604.1, 58.1-614, 58.1-615, 58.1-622, 58.1-627, 58.1-628, and 58.1-639 of the Code of Virginia, and to repeal §§ 58.1-303, 58.1-305 through 58.1-309, and Article 2 (§§ 58.1-320 through 58.1-326), Article 3 (§§ 58.1-331 through 58.1-339.10), Article 4 (§§ 58.1-340 through 58.1-355), Article 6 (§§ 58.1-360 through 58.1-363), Article 7 (§§ 58.1-370 and 58.1-371), Article 8 (§§ 58.1-380 through 58.1-383), Article 9 (§§ 58.1-390 through 58.1-394), Article 16 (§§ 58.1-460 through 58.1-486), Article 19 (§§ 58.1-490 through 58.1-499), Article 21 (§§ 58.1-520 through 58.1-535), and Article 22 (§§ 58.1-540 through 58.1-549) of Chapter 3 of Title 58.1 of the Code of Virginia, relating to taxation of individuals and corporations.

Patron—Athey

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-300, 58.1-310, 58.1-311, 58.1-439.13, 58.1-439.14, 58.1-512, 58.1-513, 58.1-603, 58.1-604, 58.1-604.1, 58.1-614, 58.1-615, 58.1-622, 58.1-627, 58.1-628 and 58.1-639 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-300. Incomes not subject to local taxation.

~~Except as provided in § 58.1-540, no~~*No* county, city, town or other political subdivision of this Commonwealth shall impose any tax or levy upon incomes, incomes being hereby segregated for state taxation only.

§ 58.1-310. Examination of federal returns.

Whenever in the opinion of the Department it is necessary to examine the federal income returns or any copy thereof of any ~~individual, estate, trust, partnership or~~ corporation in order properly to audit such returns, the Department or the commissioner of the revenue shall have the right to require such taxpayer to provide such return or a copy thereof and all statements, inventories, and schedules in support thereof.

§ 58.1-311. Report of change in federal taxable income.

If the amount of any ~~individual, estate, trust or~~ corporate taxpayer's federal taxable income reported on his federal income tax return for any taxable year is changed or corrected by the United States Internal Revenue Service or other competent authority, or as the result of a renegotiation of a contract or subcontract with the United States, the taxpayer shall file an amended return, or such other form as the Department may prescribe, reporting such change or correction in federal taxable income within ~~ninety~~*90* days after the final determination of such change, correction, or renegotiation, or as otherwise required by the Department, and shall concede the accuracy of such determination or state wherein it is erroneous. However, if the department has sufficient information from which to compute the proper additional tax and the taxpayer has paid such tax, then the taxpayer is not required to file an amended ~~individual~~ income tax return. Any taxpayer filing an amended federal income tax return shall also file within ~~ninety~~*90* days thereafter an amended return under this chapter and shall give such information as the Department may require. The Department may by regulation prescribe such exceptions to the requirements of this section as it deems appropriate.

§ 58.1-439.13. Tax credit for investing in technology industries in tobacco-dependent localities.

A. For purposes of this section:

"Biotechnology company" means a taxpayer that (i) has paid or incurred qualified research expenses for research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including, but not limited to, medical, pharmaceutical, nutritional, and other health-related purposes; agricultural purposes; or environmental purposes, (ii) conducts pilot scale manufacturing in Virginia, or (iii) provides services or products necessary for such research, development, production, or provision.

"Capital investment" means an investment in real property, personal property, or both, by an information technology or biotechnology company that is capitalized by such company.

"Equity" ~~has the same meaning as that term is defined in § 58.1-339.4~~*means common stock or preferred stock, regardless of class or series, of a corporation; a partnership interest in a limited partnership; or a membership interest in a limited liability company, which is not required or subject to an option on the part of the taxpayer to be redeemed by the issuer within five years from the date of*

issuance.

"Qualified investment" means a cash investment in an information technology or biotechnology company in the form of equity or subordinated debt; however, an investment shall not be qualified if the taxpayer who holds such investment, or any of such taxpayer's family members, or any entity affiliated with such taxpayer, receives or has received compensation from such company in exchange for services provided to such business as an employee, officer, director, manager, independent contractor or otherwise in connection with or within one year before or after the date of such investment. For the purposes hereof, reimbursement of reasonable expenses incurred shall not be deemed to be compensation.

A qualified investment shall also include a capital investment.

"Qualified research expenses" means qualified research expenses as defined in § 41 of the Internal Revenue Code of 1986, 26 U.S.C. § 41, as in effect on June 30, 1992, in the fields of advanced computing, advanced materials, biotechnology, electronic device technology, environmental technology, or medical device technology.

"Subordinated debt" ~~has the same meaning as that term is defined in § 58.1-399.4~~*means indebtedness of a corporation, general or limited partnership, or limited liability company that (i) by its terms required no repayment of principal for the first three years after issuance; (ii) is not guaranteed by any other person or secured by any assets of the issuer or any other person; and (iii) is subordinated to all indebtedness and obligations of the issuer to national or state-chartered banking or savings and loan institutions.*

"Tobacco-dependent locality" means those Virginia localities that have traditionally economically depended on tobacco and shall be identified by the Tobacco Indemnification and Community Revitalization Commission.

B. For taxable years beginning on and after January 1, 2000, but before January 1, 2010, a taxpayer shall be allowed a credit against the taxes imposed for such taxable years by ~~Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and~~ *Article* 10 (§ 58.1-400 et seq.) of this chapter in the amount equal to ~~fifty~~*50* percent of the qualified investment in an information technology or biotechnology company located in a tobacco-dependent locality. The amount of credit allowed to a taxpayer under this section shall not exceed $500,000 in aggregate for qualified investments other than capital investments, and shall not exceed $500,000 per taxable year for capital investments. Such credit shall be first allowed for the taxable year in which the qualified investment was completed or made if the qualified investment was a capital investment. For all qualified investments, before any credit is allowed under this section, the Virginia Economic Development Partnership shall review, evaluate and report to the Tobacco Indemnification and Community Revitalization Commission upon the taxpayer's proposed capital investments, detailing how such qualified investment will be spent in a tobacco-dependent locality. The credit provided under this section shall then first be allowed for the taxable year in which the Commission finds that such qualified investment was spent in a tobacco-dependent locality. The amount of credit allowed shall not exceed the tax imposed for the taxable year. Any credit not usable for the taxable year because of this limitation may be carried over for the next ~~ten~~*10* succeeding taxable years. No credit shall be carried back to a preceding taxable year. If a taxpayer that is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of the Code of Virginia, or has a credit carryover from a preceding taxable year, such taxpayer shall be considered to have first utilized any credit allowed that does not have a carryover provision, and then any credit that is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

C. The tax credit established in this section may be claimed to the extent moneys from the Tobacco Indemnification and Community Revitalization Fund, created in § 3.1-1111, are deposited into the Technology Initiative in Tobacco-Dependent Localities Fund, established under § 58.1-439.15, for the purpose of funding this credit. If the amount of credits otherwise allowable under this section exceed the amount deposited in the Fund for a fiscal year, such credits shall be allocated to taxpayers on a pro rata basis by the Department of Taxation.

D. In the case of a qualified investment other than a capital investment, unless the taxpayer transfers the equity received in connection with such investment as a result of (i) the liquidation of the information technology or biotechnology company issuing such equity, (ii) the merger, consolidation or other acquisition of such business with or by a party not affiliated with such business, or (iii) the death of the taxpayer, any taxpayer that fails to hold such equity for at least five full calendar years following the calendar year for which a tax credit for such investment is allowed pursuant to this section shall forfeit both used and unused tax credits and shall pay the Department of Taxation a penalty equal to all of the tax credits allowed to such taxpayer pursuant to this section, except for credit allowed for a capital investment, with interest at the rate of one percent per month, compounded monthly, from the date the tax credits were allocated to the taxpayer. Any amount received under this subsection shall be deposited into the Technology Initiative in Tobacco-Dependent Localities Fund.

E. A taxpayer who claims the credit for a qualified investment under this section may not use such qualified investment as the basis for claiming any other credit provided under the Code of Virginia.

F. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders or members, respectively, in proportion to their ownership or interest in such business entities.

§ 58.1-439.14. Tax credit for research and development activity occurring in tobacco-dependent localities.

A. As used in this section:

"Eligible research and development activity" means qualified research expenses as defined in § 41 of the Internal Revenue Code of 1986, 26 U.S.C. § 41, as in effect on June 30, 1992, in the fields of advanced computing, advanced materials, biotechnology, electronic device technology, environmental technology, or medical device technology, or other technology field, when such expenses are paid or incurred by a taxpayer for such activity occurring at the taxpayer's place of business in a tobacco-dependent locality of the Commonwealth.

"Tobacco-dependent locality" means those Virginia localities that have traditionally economically depended on tobacco and shall be identified by the Tobacco Indemnification and Community Revitalization Commission.

B. For taxable years beginning on and after January 1, 2000, but before January 1, 2010, a taxpayer shall be allowed a credit against the taxes imposed by ~~Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and~~ *Article* 10 (§ 58.1-400 et seq.) of this chapter as set forth in this section. The amount of credit allowed pursuant to this section shall be equal to ~~fifty~~*50* percent of the amount paid or incurred by a taxpayer for an eligible research and development activity during the taxable year.

C. A taxpayer may claim the credit for the taxable year in which the eligible research and development activity occurred. No taxpayer shall be eligible to claim a credit of more than $500,000 per taxable year. The amount of credit allowed shall not exceed the tax imposed for the taxable year. Any credit not usable for the taxable year because of such limitation may be, to the extent usable and subject to subsections D and E, carried over for the next ~~ten~~*10* succeeding taxable years. No credit shall be carried back to a preceding taxable year. If a taxpayer that is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of the Code of Virginia, or has a credit carryover from a preceding taxable year, such taxpayer shall be considered to have first utilized any credit allowed that does not have a carryover provision, and then any credit that is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

D. The tax credit established in this section may be claimed to the extent moneys from the Tobacco Indemnification and Community Revitalization Fund, created in § 3.1-1111, are deposited into the Technology Initiative in Tobacco-Dependent Localities Fund, established under § 58.1-439.15, for the purpose of funding this credit. If the amount of credits otherwise allowable under this section exceed the amount deposited in the Fund for a fiscal year, such credits shall be allocated to taxpayers on a pro rata basis by the Department of Taxation.

E. Tax credit redemption and transfer.

If the taxpayer has no state tax liability for two consecutive taxable years for which credit is otherwise allowable, the credit amount applicable to such taxable years may be redeemable by the Tax Commissioner on behalf of the Commonwealth for ~~seventy-five~~*75* percent of the face value within ~~ninety~~*90* days after the taxpayer has filed the applicable income tax return for the second such taxable year. If the Commonwealth does not redeem the tax credit or upon the taxpayer's election, such tax credit shall be transferable by sale.

F. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders or members, respectively, in proportion to their ownership or interest in such business entities.

G. A taxpayer who claims the credit for eligible research and development activity under this section may not use such research and development activity as the basis for claiming any other credit provided under the Code of Virginia.

§ 58.1-512. Land preservation tax credits for corporations.

A. For taxable years beginning on or after January 1, 2000, there shall be allowed as a credit against the tax liability imposed by ~~§§ 58.1-320 and~~ *§* 58.1-400, an amount equal to ~~fifty~~*50* percent of the fair market value of any land or interest in land located in Virginia which is conveyed for the purpose of agricultural and forestal use, open space, natural resource, and/or biodiversity conservation, or land, agricultural, watershed and/or historic preservation, as an unconditional donation in perpetuity by the landowner/taxpayer to a public or private conservation agency eligible to hold such land and interests

therein for conservation or preservation purposes. The fair market value of qualified donations made under this section shall be substantiated by a "qualified appraisal" prepared by a "qualified appraiser," as those terms are defined under applicable federal law and regulations governing charitable contributions.

B. 1. The amount of the credit that may be claimed by a taxpayer shall not exceed $50,000 for 2000 taxable years, $75,000 for 2001 taxable years, and $100,000 for 2002 taxable years and thereafter. In addition, in any one taxable year the credit used may not exceed the amount of individual, fiduciary or corporate income tax otherwise due. Any portion of the credit which is unused in any one taxable year may be carried over for a maximum of five consecutive taxable years following the taxable year in which the credit originated until fully expended.

2. Qualified donations shall include the conveyance in perpetuity of a fee interest in real property or a less-than-fee interest in real property, such as a conservation restriction, preservation restriction, agricultural preservation restriction, or watershed preservation restriction, provided that such less-than-fee interest qualifies as a charitable deduction under § 170 (h) of the U.S. Internal Revenue Code of 1986, as amended. Dedications of land for open space for the purpose of fulfilling density requirements to obtain subdivision or building permits shall not be considered as qualified donations under this act.

3. Qualified donations shall be eligible for the tax credit herein described if such donations are made to the Commonwealth of Virginia, an instrumentality thereof, or a charitable organization described in § 501 (c) (3) of the U.S. Internal Revenue Code of 1986, as amended, if such charitable organization (i) meets the requirements of § 509 (a) (2) or (ii) meets the requirements of § 509 (a) (3) and is controlled by an organization described in § 509 (a) (2).

4. The preservation, agricultural preservation, historic preservation or similar use and purpose of such property shall be assured in perpetuity.

§ 58.1-513. Limitations; transfer of credit; gain or loss from tax credit.

A. Any taxpayer claiming a tax credit under this article shall not claim a credit under any similar Virginia law for costs related to the same project. ~~To the extent a credit is taken in accordance with this article, no subtraction allowed for the gain on the sale of (i) land dedicated to open-space use or (ii) an easement dedicated to open-space use under subsection C of § 58.1-322 shall be allowed for three years following the year in which the credit is taken.~~

B. Any tax credits that arise under this article from the donation of land or an interest in land made by a pass-through tax entity such as a trust, estate, partnership, limited liability corporation or partnership, limited partnership, subchapter S corporation or other fiduciary shall be used either by such entity if it is the taxpayer on behalf of such entity or by the member, manager, partner, shareholder and/or beneficiary, as the case may be, in proportion to their interest in such entity in the event that income, deductions and tax liability pass through such entity to such member, manager, partner, shareholder and/or beneficiary or as set forth in the agreement of said entity. Such tax credits shall not be claimed by both the entity and the member, manager partner, shareholder and/or beneficiary for the same donation.

C. Any taxpayer holding a credit under this article may transfer unused but otherwise allowable credit for use by another taxpayer on Virginia income tax returns. A taxpayer who transfers any amount of credit under this article shall file a notification of such transfer to the Department in accordance with procedures and forms prescribed by the Tax Commissioner.

D. To the extent included in and not otherwise subtracted from ~~federal adjusted gross income pursuant to § 58.1-322 or~~ federal taxable income pursuant to § 58.1-402, there shall be subtracted any amount of gain or income recognized by a taxpayer on the application of a tax credit under this article against a Virginia income tax liability.

E. The transfer of the credit and its application against a tax liability shall not create gain or loss for the transferor or the transferee of such credit.

§ 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 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~~ *eight* and one-half percent:

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

2. Of the gross proceeds derived from the lease or rental of tangible personal property, where the lease or rental of such 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~~ *eight* 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.

§ 58.1-604.1. Use tax on motor vehicles, machinery, tools and equipment brought into Virginia for use in performing contracts.

In addition to the use tax levied pursuant to § 58.1-604 and notwithstanding the provisions of § 58.1-611, a use tax is levied upon the storage or use of all motor vehicles, machines, machinery, tools or other equipment brought, imported or caused to be brought into this Commonwealth for use in constructing, building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or water system, drainage or dredging system, railway system, reservoir or dam, hydraulic or power plant, transmission line, tower, dock, wharf, excavation, grading, or other improvement or structure, or any part thereof. The rate of tax is ~~three~~ *eight* and one-half percent on all tangible personal property except motor vehicles, which shall be taxed at the rate of three percent; aircraft, which shall be taxed at the rate of two percent; and watercraft, which shall be taxed at the rate of two percent with a maximum tax of $1,000.

For purposes of this section the words "motor vehicle" means any vehicle which is self-propelled and designed primarily for use upon the highways, any vehicle which is propelled by electric power obtained from trolley wires but not operated upon rails, and any vehicle designed to run upon the highways which is pulled by a self-propelled vehicle, but shall not include any implement of husbandry, farm tractor, road construction or maintenance machinery or equipment, special mobile equipment or any vehicle designed primarily for use in work off the highway.

The tax shall be computed on the basis of such proportion of the original purchase price of such property as the duration of time of use in this Commonwealth bears to the total useful life thereof. For purposes of this section, the word "use" means use, storage, consumption and "stand-by" time occasioned by weather conditions, controversies or other causes. The tax shall be computed upon the basis of the relative time each item of equipment is in this Commonwealth rather than upon the basis of actual use. In the absence of satisfactory evidence as to the period of use intended in this Commonwealth, it will be presumed that such property will remain in this Commonwealth for the remainder of its useful life, which shall be determined in accordance with the experiences and practices of the building and construction trades.

A transaction taxed under §§ 58.1-604, 58.1-605, 58.1-1402, 58.1-1502, or § 58.1-2402 shall not also be taxed under this section, nor shall the same transaction be taxed more than once under any section.

§ 58.1-614. Vending machine sales.

A. Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever a dealer makes sales of tangible personal property through vending machines, or in any other manner making collection of the tax impractical, as determined by the Tax Commissioner, such dealer shall be required to report his

wholesale purchases for sale at retail from vending machines and shall be required to remit an amount based on ~~four~~ *nine* and one-half percent of such wholesale purchases.

B. Notwithstanding the provisions of §§ 58.1-605 and 58.1-606, dealers making sales of tangible personal property through vending machines shall report and remit the one percent local sales and use tax computed as provided in subsection A of this section.

C. The provisions of subsections A and B of this section shall not be applicable to vending machine operators all of whose machines are under contract to nonprofit organizations. Such operators shall report only the gross receipts from machines selling items for more than ~~ten~~*10* cents and shall be required to remit an amount based on a percentage of their remaining gross sales established by the Tax Commissioner to take into account the inclusion of sales tax.

D. Notwithstanding any other provisions in this section or § 58.1-628, when the Tax Commissioner determines that it is impractical to collect the tax in the manner provided by those sections, such dealer shall be required to remit an amount based on a percentage of gross receipts which takes into account the inclusion of the sales tax.

E. The provisions of this section shall not be applicable to any dealer who fails to maintain records satisfactory to the Tax Commissioner. A dealer making sales of tangible personal property through vending machines shall obtain a certificate of registration under § 58.1-613 in relevant form for each county or city in which he has machines.

§ 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~~*52* to ~~fifty-three~~*53* 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.~~

§ 58.1-622. Discount.

For the purpose of compensating a dealer holding a certificate of registration under § 58.1-613 for accounting for and remitting the tax levied by this chapter, such dealer shall be allowed the following percentages of the first three percent of the tax levied by §§ 58.1-603 and 58.1-604 and accounted for in the form of a deduction in submitting his return and paying the amount due by him if the amount due was not delinquent at the time of payment.

Monthly Taxable Sales	Percentage
$ 0 to $62,500	*42%*

$ 62,501 to $208,000			~~*31.5*~~%
$ 208,001 and above			~~*21*~~%

The discount allowed by this section shall be computed according to the schedule provided, regardless of the number of certificates of registration held by a dealer.

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

~~The following brackets of prices shall be used for the collection of the tax imposed by this chapter:~~

~~$0.00~~	~~to~~	~~$0.14~~	~~no tax~~
~~.15~~	~~to~~	~~.42~~	~~1» tax~~
~~.43~~	~~to~~	~~.71~~	~~2» tax~~
~~.72~~	~~to~~	~~.99~~	~~3» tax~~
~~1.00~~	~~to~~	~~1.28~~	~~4» tax~~
~~1.29~~	~~to~~	~~1.57~~	~~5» tax~~
~~1.58~~	~~to~~	~~1.85~~	~~6» tax~~
~~1.86~~	~~to~~	~~2.14~~	~~7» tax~~
~~2.15~~	~~to~~	~~2.42~~	~~8» tax~~
~~2.43~~	~~to~~	~~2.71~~	~~9» tax~~
~~2.72~~	~~to~~	~~2.99~~	~~10» tax~~
~~3.00~~	~~to~~	~~3.28~~	~~11» tax~~
~~3.29~~	~~to~~	~~3.57~~	~~12» tax~~
~~3.58~~	~~to~~	~~3.85~~	~~13» tax~~
~~3.86~~	~~to~~	~~4.14~~	~~14» tax~~
~~4.15~~	~~to~~	~~4.42~~	~~15» tax~~
~~4.43~~	~~to~~	~~4.71~~	~~16» tax~~
~~4.72~~	~~to~~	~~5.00~~	~~17» tax~~

The Tax Commissioner shall determine the brackets of prices on amounts from $0.00 to $5.00 to be used for the collection of the tax imposed by this chapter and shall publish such brackets in regulations.

On transactions over ~~five dollars~~*$5*, the tax shall be computed at ~~three~~ *eight* and one-half percent, one-half cent or more being treated as one cent. If a dealer can show to the satisfaction of the Tax Commissioner that more than ~~eighty-five~~*85* percent of the total dollar volume of his gross taxable sales during the taxable month was from individual sales at prices of ~~ten~~*10* 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~~*11* cents or more.

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

~~The following brackets of prices shall be used for the collection of the combined state and local tax:~~

~~$0.00~~	~~to~~	~~$0.11~~	~~no tax~~
~~.12~~	~~to~~	~~.33~~	~~1» tax~~
~~.34~~	~~to~~	~~.55~~	~~2» tax~~
~~.56~~	~~to~~	~~.77~~	~~3» tax~~
~~.78~~	~~to~~	~~.99~~	~~4» tax~~
~~1.00~~	~~to~~	~~1.22~~	~~5» tax~~
~~1.23~~	~~to~~	~~1.44~~	~~6» tax~~
~~1.45~~	~~to~~	~~1.66~~	~~7» tax~~
~~1.67~~	~~to~~	~~1.88~~	~~8» tax~~
~~1.89~~	~~to~~	~~2.11~~	~~9» tax~~
~~2.12~~	~~to~~	~~2.33~~	~~10» tax~~
~~2.34~~	~~to~~	~~2.55~~	~~11» tax~~
~~2.56~~	~~to~~	~~2.77~~	~~12» tax~~
~~2.78~~	~~to~~	~~2.99~~	~~13» tax~~
~~3.00~~	~~to~~	~~3.22~~	~~14» tax~~
~~3.23~~	~~to~~	~~3.44~~	~~15» tax~~
~~3.45~~	~~to~~	~~3.66~~	~~16» tax~~
~~3.67~~	~~to~~	~~3.88~~	~~17» tax~~
~~3.89~~	~~to~~	~~4.11~~	~~18» tax~~
~~4.12~~	~~to~~	~~4.33~~	~~19» tax~~

~~4.34 to 4.55 20» tax~~
~~4.56 to 4.77 21» tax~~
~~4.78 to 5.00 22» tax~~

The Tax Commissioner shall determine the brackets of prices on amounts from $0.00 to $5.00 to be used for the collection of the tax imposed by this chapter and shall publish such brackets in regulations.

On transactions over ~~five dollars~~*$5*, the tax shall be computed at ~~four~~ *nine* 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~~ *nine* 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~~*85* percent of the total dollar volume of his gross taxable sales during the taxable month was from individual sales at prices of ~~ten~~*10* 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~~*11* cents or more.

§ 58.1-639. Transitional provisions.

A. To the extent of any increase in the state sales and use tax rate enacted by the ~~1986 Special~~ *2004* Session *and reenacted by the 2005 Session* of the Virginia General Assembly, the Tax Commissioner, upon application of the purchaser in accordance with regulations promulgated by the Commissioner, shall have the authority to refund state sales or use taxes paid on purchases of tangible personal property made pursuant to bona fide real estate construction contracts, contracts for the sale of tangible personal property, and leases, provided that the real estate construction contract, contract for the sale of tangible personal property or lease is entered into prior to the date of enactment of the increase of the state sales and use tax rate; and further provided that the date of delivery of the tangible personal property is on or before March 30, ~~1987~~*2006*. The term "bona fide contract," when used in this section in relation to real estate construction contracts, shall include but not be limited to those contracts which are entered into prior to the enactment of the increase in the state sales and use tax rate, provided that such contracts include plans and specifications.

B. Notwithstanding the foregoing March 30, ~~1987~~*2006*, delivery date requirement, with respect to bona fide real estate construction contracts which contain a specific and stated date of completion, the date of delivery of such tangible personal property shall be on or before the completion date of the applicable project.

C. Applications for refunds pursuant to this section shall be made in accordance with the provisions of § 58.1-1823. Interest computed in accordance with § 58.1-1833 shall be added to the tax refunded pursuant to this section.

2. That §§ 58.1-303, 58.1-305 through 58.1-309, and Article 2 (§§ 58.1-320 through 58.1-326), Article 3 (§§ 58.1-331 through 58.1-339.10), Article 4 (§§ 58.1-340 through 58.1-355), Article 6 (§§ 58.1-360 through 58.1-363), Article 7 (§§ 58.1-370 and 58.1-371), Article 8 (§§ 58.1-380 through 58.1-383), Article 9 (§§ 58.1-390 through 58.1-394), Article 16 (§§ 58.1-460 through 58.1-486), Article 19 (§§ 58.1-490 through 58.1-499), Article 21 (§§ 58.1-520 through 58.1-535), and Article 22 (§§ 58.1-540 through 58.1-549) of Chapter 3 of Title 58.1 of the Code of Virginia are repealed.

3. That the provisions of this act shall be effective for taxable years beginning on or after January 1, 2006.

4. That the provisions of this act shall not become effective unless reenacted by the 2005 Session of the General Assembly.