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**HOUSE BILL NO. 911**

Offered January 9, 2008

Prefiled January 8, 2008

*A BILL to amend and reenact § 58.1-1101 of the Code of Virginia, relating to classification of certain property as intangible personal property.*

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 Patron—Purkey
 

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 Referred to Committee on Finance
 

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**Be it enacted by the General Assembly of Virginia:****1. That § 58.1-1101 of the Code of Virginia is amended and reenacted as follows:**

§ 58.1-1101. Classification.

A. The subjects of taxation classified by this section are hereby defined as intangible personal property:

1. Capital which is inventory, except wine while in the hands of a farm winery producer as defined in § 4.1-100, merchandise located in a foreign trade zone as defined in subdivision 7 of this subsection and any agricultural product held in this Commonwealth by any manufacturer for manufacturing or processing which is of such nature as customarily requires storage and processing for periods of more than one year in order to age or condition such product for manufacture. Such agricultural product shall be includible in inventory for one tax year only and after being taxed for one year shall thereafter be excluded for all succeeding tax years;

2. Capital which is personal property, tangible in fact, used in manufacturing (including, but not limited to, furniture, fixtures, office equipment and computer equipment used in corporate headquarters), mining, water well drilling, radio or television broadcasting, dairy, dry cleaning or laundry businesses. Machinery and tools, motor vehicles and delivery equipment of such businesses shall not be defined as intangible personal property for purposes of this chapter and shall be taxed locally as tangible personal property according to the applicable provisions of law relative to such property;

2a. Personal property, tangible in fact, used in cable television businesses. Machines and tools, motor vehicles, delivery equipment, trunk and feeder cables, studio equipment, antennae and office furniture and equipment of such businesses shall not be defined as intangible personal property for purposes of this chapter and shall be taxed locally as tangible personal property according to the applicable provisions of law relative to such property;

3. Money;

4. Bonds, notes, and other evidences of debt; demands and claims;

5. Shares of stock;

6. Accounts receivable;

7. All imported and exported foreign merchandise or domestic merchandise scheduled for export while in inventory located in a foreign trade zone within the Commonwealth;

8. Computer application software, except computer application software which is inventory as defined in subdivision 1 of this subsection, is defined as computer instructions, in any form, which are designed to be read by a computer and to enable it to perform specific operations with data or information stored by the computer; ~~and~~

9. Capital which is personal property, tangible in fact, used in commercial fishing businesses, and used in the water to catch or harvest seafood, including but not limited to crab pots, nets, tongs, and dredge equipment. Fishing vessels and property permanently attached to such vessels shall not be defined as intangible personal property for purposes of this chapter and shall be taxed locally as tangible personal property according to the applicable provisions of law relative to such property; *and*

10. *Capital that is personal property, tangible in fact, that is idle equipment, hardware or software, of a research and development or technology, high technology, or nanotechnology business. For purposes of this subdivision, equipment, hardware or software, is idle if it (a) (i) has been discontinued in use continuously for at least one year prior to tax day, or (ii) on and after January 1, 2008, has been specifically identified in writing by the taxpayer to the commissioner of the revenue or other assessing official, on or before April 1 of such year, as equipment, hardware or software, that the taxpayer intends to withdraw from service not later than the next succeeding tax day; and (b) is not in use on tax day and there is no reasonable prospect that such equipment will be returned to use during the tax year. In the event that any equipment, hardware or software, taken out of use subsequent to January 1, 2008, is returned to use after having been previously classified as idle pursuant to clause (a) (ii), the taxpayer shall identify such equipment, hardware or software, to the commissioner of the revenue or*

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59 *other assessing official in writing on or before the next return due date without extension, and such*  
60 *equipment shall be subject to tax in accordance with the provisions of § 58.1-3903 in the same manner*  
61 *as if such equipment had been in use on tax day of the year in which such return to use occurs. Any*  
62 *interest otherwise payable pursuant to applicable law or ordinance shall apply to taxes imposed*  
63 *pursuant to this subdivision and paid after the due date, without regard to the fault of the taxpayer or*  
64 *lack thereof. Notwithstanding the provisions of § 58.1-3903, if the taxpayer has provided timely written*  
65 *notice of return to use in accordance with the provisions of this subdivision, no penalty shall be levied*  
66 *with respect to any tax liability arising as a result of the return to use of equipment, hardware or*  
67 *software, classified as idle and actually idle prior to such return to use.*

68 B. [Repealed.]

69 C. The subjects of intangible personal property set forth in subdivisions 1 through 9 of subsection A  
70 shall be exempt from taxation as provided in Article X, Section 6 (a) (5) of the Constitution of Virginia.