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**HOUSE BILL NO. 2232**

Offered January 12, 2011

Prefiled January 12, 2011

*A BILL to amend and reenact § 58.1-3503, 58.1-3506, and 58.1-3510.4 of the Code of Virginia, relating to personal property tax; valuation of motor vehicles.*

\_\_\_\_\_  
Patron—Anderson

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Referred to Committee on Finance

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

**1. That § 58.1-3503, 58.1-3506, and 58.1-3510.4 of the Code of Virginia are amended and reenacted as follows:**

§ 58.1-3503. General classification of tangible personal property.

A. Tangible personal property is classified for valuation purposes according to the following separate categories which are not to be considered separate classes for rate purposes:

1. Farm animals, except as exempted under § 58.1-3505.

2. Farm machinery, except as exempted under § 58.1-3505.

3. Automobiles, trucks, and other vehicles as defined in § 46.2-100 except those described in subdivisions 7, 8 and 9 of this subsection and in subdivision A 8 of § 58.1-3504, which shall be valued by means of a recognized the National Automobile Dealers Association pricing guide using the lowest value specified in such guide for the model and year of the vehicle. ~~or if~~ If the model and year of the individual automobile vehicle are not listed in the recognized National Automobile Dealers Association pricing guide, the individual vehicle may be valued on the basis of percentage or percentages of original cost. In using a recognized pricing guide, the commissioner shall use either of the following two methods. The commissioner may use all applicable adjustments in such guide to determine the value of each individual automobile, or alternatively, if the commissioner does not utilize all applicable adjustments in valuing each automobile, he shall use the base value specified in such guide which may be either average retail, wholesale, or loan value, so long as uniformly applied within classifications of property. If the model and year of the individual automobile are not listed in the recognized pricing guide, and the taxpayer may present to the commissioner proof of the original cost, and the basis of the tax for purposes of the motor vehicle sales and use tax as described in § 58.1-2405 shall constitute proof of original cost. If such percentage or percentages of original cost do not accurately reflect fair market value, or if the taxpayer does not supply proof of original cost, then the commissioner may select another method which establishes fair market value.

4. Trucks of less than two tons, which may be valued by means of a recognized pricing guide or, if the model and year of the individual truck are not listed in the recognized pricing guide, on the basis of a percentage or percentages of original cost.

5. Trucks and other vehicles, as defined in § 46.2-100, except those described in subdivisions 4, and 6 through 10 of this subsection, which shall be valued by means of either a recognized pricing guide using the lowest value specified in such guide or a percentage or percentages of original cost.

64. Manufactured homes, as defined in § 36-85.3, which may be valued on the basis of square footage of living space.

75. Antique motor vehicles, as defined in § 46.2-100, which may be used for general transportation purposes as provided in subsection C of § 46.2-730.

86. Taxicabs.

97. Motor vehicles with specially designed equipment for use by the handicapped, which shall not be valued in relation to their initial cost, but by determining their actual market value if offered for sale on the open market.

108. Motorcycles, all-terrain vehicles and off-road motorcycles as defined in § 46.2-100, campers and other recreational vehicles, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.

119. Boats weighing under five tons and boat trailers, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.

1210. Boats or watercraft weighing five tons or more, which shall be valued by means of a percentage or percentages of original cost.

1311. Aircraft, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.

1412. Household goods and personal effects, except as exempted under § 58.1-3504.

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59 1513. Tangible personal property used in a research and development business, which shall be valued  
60 by means of a percentage or percentages of original cost.

61 1614. Programmable computer equipment and peripherals used in business which shall be valued by  
62 means of a percentage or percentages of original cost to the taxpayer, or by such other method as may  
63 reasonably be expected to determine the actual fair market value.

64 1715. All tangible personal property employed in a trade or business other than that described in  
65 subdivisions 1 through 16 14 of this subsection, which shall be valued by means of a percentage or  
66 percentages of original cost.

67 1816. All other tangible personal property.

68 B. 1. Methods of valuing property may differ among the separate categories, so long as each method  
69 used is uniform within each category, is consistent with requirements of this section and may reasonably  
70 be expected to determine actual fair market value as determined by the commissioner of revenue or  
71 other assessing official; however, assessment ratios shall only be used with the concurrence of the local  
72 governing body. A commissioner of revenue shall upon request take into account the condition of the  
73 property. The term "condition of the property" includes, but is not limited to, technological obsolescence  
74 of property where technological obsolescence is an appropriate factor for valuing such property. The  
75 commissioner of revenue shall make available to taxpayers on request a reasonable description of his  
76 valuation methods. Such commissioner, or other assessing officer, or his authorized agent, when using a  
77 recognized pricing guide as provided for in this section, may automatically extend the assessment if the  
78 pricing information is stored in a computer.

79 2. *In the event that property is classified in more than one subdivision in subsection A, then the*  
80 *method of valuation used shall be the method that yields the lowest valuation.*

81 § 58.1-3506. Other classifications of tangible personal property for taxation.

82 A. The items of property set forth below are each declared to be a separate class of property and  
83 shall constitute a classification for local taxation separate from other classifications of tangible personal  
84 property provided in this chapter:

85 1. a. Boats or watercraft weighing five tons or more, not used solely for business purposes;

86 b. Boats or watercraft weighing less than five tons, not used solely for business purposes;

87 2. Aircraft having a maximum passenger seating capacity of no more than 50 that are owned and  
88 operated by scheduled air carriers operating under certificates of public convenience and necessity issued  
89 by the State Corporation Commission or the Civil Aeronautics Board;

90 3. Aircraft having a registered empty gross weight equal to or greater than 20,000 pounds that are  
91 not owned or operated by scheduled air carriers recognized under federal law, but not including any  
92 aircraft described in subdivision 4;

93 4. Aircraft that are (i) considered Warbirds, manufactured and intended for military use, excluding  
94 those manufactured after 1954, and (ii) used only for (a) exhibit or display to the general public and  
95 otherwise used for educational purposes (including such flights as are necessary for testing, maintaining,  
96 or preparing such aircraft for safe operation), or (b) airshow and flight demonstrations (including such  
97 flights necessary for testing, maintaining, or preparing such aircraft for safe operation), shall constitute a  
98 new class of property. Such class of property shall not include any aircraft used for commercial  
99 purposes, including transportation and other services for a fee;

100 5. All other aircraft not included in subdivisions A 2, A 3, or A 4 and flight simulators;

101 6. Antique motor vehicles as defined in § 46.2-100 which may be used for general transportation  
102 purposes as provided in subsection C of § 46.2-730;

103 7. Tangible personal property used in a research and development business;

104 8. Heavy construction machinery not used for business purposes, including but not limited to land  
105 movers, bulldozers, front-end loaders, graders, packers, power shovels, cranes, pile drivers, forest  
106 harvesting and silvicultural activity equipment and ditch and other types of diggers;

107 9. Generating equipment purchased after December 31, 1974, for the purpose of changing the energy  
108 source of a manufacturing plant from oil or natural gas to coal, wood, wood bark, wood residue, or any  
109 other alternative energy source for use in manufacturing and any cogeneration equipment purchased to  
110 achieve more efficient use of any energy source. Such generating equipment and cogeneration equipment  
111 shall include, without limitation, such equipment purchased by firms engaged in the business of  
112 generating electricity or steam, or both;

113 10. Vehicles without motive power, used or designed to be used as manufactured homes as defined  
114 in § 36-85.3;

115 11. Computer hardware used by businesses primarily engaged in providing data processing services  
116 to other nonrelated or nonaffiliated businesses;

117 12. Privately owned pleasure boats and watercraft, 18 feet and over, used for recreational purposes  
118 only;

119 13. Privately owned vans with a seating capacity of not less than seven nor more than 15 persons,  
120 including the driver, used exclusively pursuant to a ridesharing arrangement as defined in § 46.2-1400;

121 14. Motor vehicles specially equipped to provide transportation for physically handicapped  
122 individuals;

123 15. Motor vehicles (i) owned by members of a volunteer rescue squad or volunteer fire department  
124 or (ii) leased by members of a volunteer rescue squad or volunteer fire department if the member is  
125 obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One  
126 motor vehicle that is owned by each volunteer rescue squad member or volunteer fire department  
127 member, or leased by each volunteer rescue squad member or volunteer fire department member if the  
128 member is obligated by the terms of the lease to pay tangible personal property tax on the motor  
129 vehicle, may be specially classified under this section, provided the volunteer rescue squad member or  
130 volunteer fire department member regularly responds to emergency calls. The volunteer shall furnish the  
131 commissioner of revenue, or other assessing officer, with a certification by the chief or head of the  
132 volunteer organization, that the volunteer is a member of the volunteer rescue squad or fire department  
133 who regularly responds to calls or regularly performs other duties for the rescue squad or fire  
134 department, and the motor vehicle owned or leased by the volunteer rescue squad member or volunteer  
135 fire department member is identified. The certification shall be submitted by January 31 of each year to  
136 the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other  
137 assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on  
138 the part of the member, to accept a certification after the January 31 deadline. In any county that  
139 prorates the assessment of tangible personal property pursuant to § 58.1-3516, a replacement vehicle may  
140 be certified and classified pursuant to this subsection when the vehicle certified as of the immediately  
141 prior January date is transferred during the tax year;

142 16. Motor vehicles (i) owned by auxiliary members of a volunteer rescue squad or volunteer fire  
143 department or (ii) leased by auxiliary members of a volunteer rescue squad or volunteer fire department  
144 if the member is obligated by the terms of the lease to pay tangible personal property tax on the motor  
145 vehicle. One motor vehicle that is regularly used by each auxiliary volunteer fire department or rescue  
146 squad member may be specially classified under this section. The auxiliary member shall furnish the  
147 commissioner of revenue, or other assessing officer, with a certification by the chief or head of the  
148 volunteer organization, that the volunteer is an auxiliary member of the volunteer rescue squad or fire  
149 department who regularly performs duties for the rescue squad or fire department, and the motor vehicle  
150 is identified as regularly used for such purpose; however, if a volunteer rescue squad or fire department  
151 member and an auxiliary member are members of the same household, that household shall be allowed  
152 no more than two special classifications under this subdivision or subdivision 15 of this section. The  
153 certification shall be submitted by January 31 of each year to the commissioner of revenue or other  
154 assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in  
155 his discretion, and for good cause shown and without fault on the part of the member, to accept a  
156 certification after the January 31 deadline;

157 17. Motor vehicles owned by a nonprofit organization and used to deliver meals to homebound  
158 persons or provide transportation to senior or handicapped citizens in the community to carry out the  
159 purposes of the nonprofit organization;

160 18. Privately owned camping trailers as defined in § 46.2-100, and privately owned travel trailers as  
161 defined in § 46.2-1900, which are used for recreational purposes only, and privately owned trailers as  
162 defined in § 46.2-100 which are designed and used for the transportation of horses except those trailers  
163 described in subdivision A 11 of § 58.1-3505;

164 19. One motor vehicle owned and regularly used by a veteran who has either lost, or lost the use of,  
165 one or both legs, or an arm or a hand, or who is blind or who is permanently and totally disabled as  
166 certified by the Department of Veterans Services. In order to qualify, the veteran shall provide a written  
167 statement to the commissioner of revenue or other assessing officer from the Department of Veterans  
168 Services that the veteran has been so designated or classified by the Department of Veterans Services as  
169 to meet the requirements of this section, and that his disability is service-connected. For purposes of this  
170 section, a person is blind if he meets the provisions of § 46.2-739;

171 20. Motor vehicles (i) owned by persons who have been appointed to serve as auxiliary police  
172 officers pursuant to Article 3 (§ 15.2-1731 et seq.) of Chapter 17 of Title 15.2 or (ii) leased by persons  
173 who have been so appointed to serve as auxiliary police officers if the person is obligated by the terms  
174 of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is  
175 regularly used by each auxiliary police officer to respond to auxiliary police duties may be specially  
176 classified under this section. In order to qualify for such classification, any auxiliary police officer who  
177 applies for such classification shall identify the vehicle for which this classification is sought, and shall  
178 furnish the commissioner of revenue or other assessing officer with a certification from the governing  
179 body that has appointed such auxiliary police officer or from the official who has appointed such  
180 auxiliary officers. That certification shall state that the applicant is an auxiliary police officer who  
181 regularly uses a motor vehicle to respond to auxiliary police duties, and it shall state that the vehicle for

182 which the classification is sought is the vehicle that is regularly used for that purpose. The certification  
183 shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer;  
184 however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion,  
185 and for good cause shown and without fault on the part of the member, to accept a certification after the  
186 January 31 deadline;

187 21. Until the first to occur of June 30, 2019, or the date that a special improvements tax is no longer  
188 levied under § 15.2-4607 on property within a Multicounty Transportation Improvement District created  
189 pursuant to Chapter 46 (§ 15.2-4600 et seq.) of Title 15.2, tangible personal property that is used in  
190 manufacturing, testing, or operating satellites within a Multicounty Transportation Improvement District,  
191 provided that such business personal property is put into service within the District on or after July 1,  
192 1999;

193 22. Motor vehicles which use clean special fuels as defined in § 46.2-749.3, which shall not include  
194 any vehicle described in subdivision 38 or 40;

195 23. Wild or exotic animals kept for public exhibition in an indoor or outdoor facility that is properly  
196 licensed by the federal government, the Commonwealth, or both, and that is properly zoned for such  
197 use. "Wild animals" means any animals that are found in the wild, or in a wild state, within the  
198 boundaries of the United States, its territories or possessions. "Exotic animals" means any animals that  
199 are found in the wild, or in a wild state, and are native to a foreign country;

200 24. Furniture, office, and maintenance equipment, exclusive of motor vehicles, that are owned and  
201 used by an organization whose real property is assessed in accordance with § 58.1-3284.1 and that is  
202 used by that organization for the purpose of maintaining or using the open or common space within a  
203 residential development;

204 25. Motor vehicles, trailers, and semitrailers with a gross vehicle weight of 10,000 pounds or more  
205 used to transport property for hire by a motor carrier engaged in interstate commerce;

206 26. All tangible personal property employed in a trade or business other than that described in  
207 subdivisions A 1 through A ~~16~~, except for subdivision A ~~17~~ 15, of § 58.1-3503;

208 27. Programmable computer equipment and peripherals employed in a trade or business;

209 28. Privately owned pleasure boats and watercraft, motorized and under 18 feet, used for recreational  
210 purposes only;

211 29. Privately owned pleasure boats and watercraft, nonmotorized and under 18 feet, used for  
212 recreational purposes only;

213 30. Privately owned motor homes as defined in § 46.2-100 that are used for recreational purposes  
214 only;

215 31. Tangible personal property used in the provision of Internet services. For purposes of this  
216 subdivision, "Internet service" means a service, including an Internet Web-hosting service, that enables  
217 users to access content, information, electronic mail, and the Internet as part of a package of services  
218 sold to customers;

219 32. Motor vehicles (i) owned by persons who serve as auxiliary, reserve, or special deputy sheriffs or  
220 (ii) leased by persons who serve as auxiliary, reserve, or special deputy sheriffs if the person is  
221 obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. For  
222 purposes of this subdivision, the term "auxiliary deputy sheriff" means auxiliary, reserve, or special  
223 deputy sheriff. One motor vehicle that is regularly used by each auxiliary deputy sheriff to respond to  
224 auxiliary deputy sheriff duties may be specially classified under this section. In order to qualify for such  
225 classification, any auxiliary deputy sheriff who applies for such classification shall identify the vehicle  
226 for which this classification is sought, and shall furnish the commissioner of revenue or other assessing  
227 officer with a certification from the governing body that has appointed such auxiliary deputy sheriff or  
228 from the official who has appointed such auxiliary deputy sheriff. That certification shall state that the  
229 applicant is an auxiliary deputy sheriff who regularly uses a motor vehicle to respond to such auxiliary  
230 duties, and it shall state that the vehicle for which the classification is sought is the vehicle that is  
231 regularly used for that purpose. The certification shall be submitted by January 31 of each year to the  
232 commissioner of revenue or other assessing officer; however, the commissioner of revenue or other  
233 assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on  
234 the part of the member, to accept a certification after the January 31 deadline;

235 33. Forest harvesting and silvicultural activity equipment;

236 34. Equipment used primarily for research, development, production, or provision of biotechnology  
237 for the purpose of developing or providing products or processes for specific commercial or public  
238 purposes, including, but not limited to, medical, pharmaceutical, nutritional, and other health-related  
239 purposes; agricultural purposes; or environmental purposes but not for human cloning purposes as  
240 defined in § 32.1-162.21 or for products or purposes related to human embryo stem cells. For purposes  
241 of this section, biotechnology equipment means equipment directly used in activities associated with the  
242 science of living things;

243 35. Boats or watercraft weighing less than five tons, used for business purposes only;

36. Boats or watercraft weighing five tons or more, used for business purposes only;  
 37. Tangible personal property which is owned and operated by a service provider who is not a CMRS provider and is not licensed by the FCC used to provide, for a fee, wireless broadband Internet service. For purposes of this subdivision, "wireless broadband Internet service" means a service that enables customers to access, through a wireless connection at an upload or download bit rate of more than one megabyte per second, Internet service, as defined in § 58.1-602, as part of a package of services sold to customers;

38. Low-speed vehicles as defined in § 46.2-100;

39. Motor vehicles with a seating capacity of not less than 30 persons, including the driver;

40. Motor vehicles powered solely by electricity; and

41. Tangible personal property designed and used primarily for the purpose of manufacturing a product from renewable energy as defined in § 56-576.

B. The governing body of any county, city or town may levy a tax on the property enumerated in subsection A at different rates from the tax levied on other tangible personal property. The rates of tax and the rates of assessment shall (i) for purposes of subdivisions 1, 2, 3, 4, 5, 6, 8, 11 through 20, 22 through 24, and 26 through 41 of subsection A, not exceed that applicable to the general class of tangible personal property, (ii) for purposes of subdivisions A 7, A 9, A 21, and A 25, not exceed that applicable to machinery and tools, and (iii) for purposes of subdivision A 10, equal that applicable to real property.

C. Notwithstanding any other provision of this section, for any qualifying vehicle, as such term is defined in § 58.1-3523, (i) included in any separate class of property in subsection A and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a payment from the Commonwealth under Chapter 35.1 of this title for providing tangible personal property tax relief, the county, city, or town may levy the tangible personal property tax on such qualifying vehicle at a rate not to exceed the rates of tax and rates of assessment required under such chapter.

§ 58.1-3510.4. Short-term rental property; short-term rental businesses.

A. For purposes of this article, "short-term rental property" means all tangible personal property held for rental and owned by a person engaged in the short-term rental business as defined in subsection B, excluding (i) trailers as defined in § 46.2-100, and (ii) other tangible personal property required to be licensed or registered with the Department of Motor Vehicles, Department of Game and Inland Fisheries, or Department of Aviation.

Short-term rental property shall constitute a classification of merchants' capital that is separate from other classifications of merchants' capital. For local property taxation purposes, the governing body of any county, city, or town may tax short-term rental property pursuant to § 58.1-3509 or may impose the tax authorized under § 58.1-3510.6, but not both.

B. A person is engaged in the short-term rental business if:

1. Not less than 80 percent of the gross rental receipts of such business during the preceding year arose from transactions involving the rental of short-term rental property, other than heavy equipment property as defined in subdivision 2, for periods of 92 consecutive days or less, including all extensions and renewals to the same person or a person affiliated with the lessee; or

2. Not less than 60 percent of the gross rental receipts of such business during the preceding year arose from transactions involving the rental of heavy equipment property for periods of 270 consecutive days or less, including all extensions and renewals to the same person or a person affiliated with the lessee. For the purposes of this subdivision, "heavy equipment property" means rental property of an industry that is described under code 532412 or 532490 of the 2002 North American Industry Classification System as published by the United States Census Bureau, excluding office furniture, office equipment, and programmable computer equipment and peripherals as defined in § 58.1-3503 A 14.

C. For purposes of determining whether a person is engaged in the short-term rental business as defined in subsection B, (i) a person is "affiliated" with the lessee of rental property if such person is an officer, director, partner, member, shareholder, parent or subsidiary of the lessee, or if such person and the lessee have any common ownership interest in excess of five percent, (ii) any rental to a person affiliated with the lessee shall be treated as rental receipts but shall not qualify for purposes of the 80 percent requirement of subdivision 1 of subsection B or the 60 percent requirement of subdivision 2 of subsection B, and (iii) any rental of personal property which also involves the provision of personal services for the operation of the personal property rented shall not be treated as gross receipts from rental, provided however that the delivery and installation of tangible personal property shall not mean operation for the purposes of this subdivision.

D. A person who has not previously been engaged in the short-term rental business who applies for a certificate of registration pursuant to § 58.1-3510.5 shall be eligible for registration upon his certification that he anticipates meeting the requirements of a specific subdivision of subsection B, designated by the applicant at the time of application, during the year for which registration is sought.

305 E. In the event that the commissioner of the revenue makes a written determination that a rental  
306 business previously certified as short-term rental business pursuant to § 58.1-3510.5 has failed to meet  
307 either of the tests set forth in subsection B during a preceding tax year, such business shall lose its  
308 certification as a short-term rental business and shall be subject to the business personal property tax  
309 with respect to all rental property for the tax year in which such certification is lost and any subsequent  
310 tax years until such time as the rental business obtains recertification pursuant to § 58.1-3510.5. In the  
311 event that a rental business loses its certification as a short-term rental business pursuant to this  
312 subsection, such business shall not be required to refund to customers daily rental property taxes  
313 previously collected in good faith and shall not be subject to assessment for business personal property  
314 taxes with respect to rental property for tax years preceding the year in which the certification is lost  
315 unless the commissioner makes a written determination that the business obtained its certification by  
316 knowingly making materially false statements in its application, in which case the commissioner may  
317 assess the taxpayer the amount of the difference between short-term rental property taxes remitted by  
318 such business during the period in which the taxpayer wrongfully held certification and the business  
319 personal property taxes that would have been due during such period but for the certification obtained  
320 by the making of the materially false statements. Any such assessment, and any determination not to  
321 certify or to decertify a rental business as a short-term rental business as defined in this subsection, may  
322 be appealed pursuant to the procedures and requirements set forth in § 58.1-3983.1 for appeals of local  
323 business taxes, which shall apply mutatis mutandis to such assessments and certification decisions.

324 F. A rental business that has been decertified pursuant to the provisions of subsection E shall be  
325 eligible for recertification for a subsequent tax year upon a showing that it has met one of the tests  
326 provided in subsection B for at least ten months of operations during the present tax year.  
327