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**HOUSE BILL NO. 2167**

Offered January 14, 2015

Prefiled January 14, 2015

*A BILL to amend and reenact §§ 58.1-334, 58.1-337, 58.1-339.2, 58.1-339.3, 58.1-339.6, 58.1-432, 58.1-436, 58.1-438.1, 58.1-439, and 58.1-609.1 of the Code of Virginia, relating to income tax and sales and use tax; placing expiration dates on credits and exemptions.*

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 Patron—Hugo
 

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Referred to Committee on Finance

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

**1. That §§ 58.1-334, 58.1-337, 58.1-339.2, 58.1-339.3, 58.1-339.6, 58.1-432, 58.1-436, 58.1-438.1, 58.1-439, and 58.1-609.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-334. Tax credit for purchase of conservation tillage equipment.**

A. Any individual shall be allowed a credit against the tax imposed by § 58.1-320 of an amount equaling 25 percent of all expenditures made for the purchase and installation of conservation tillage equipment used in agricultural production by the purchaser. As used in this section the term "conservation tillage equipment" means a planter, drill, or other equipment used to reduce soil compaction commonly known as a "no-till" planter, drill, or other equipment used to reduce soil compaction including guidance systems to control traffic patterns that are designed to minimize disturbance of the soil in planting crops, including such planters, drills, or other equipment designed to reduce soil compaction which may be attached to equipment already owned by the taxpayer.

B. The amount of such credit shall not exceed \$4,000 or the total amount of tax imposed by this chapter, whichever is less, in the year of purchase. If the amount of such credit exceeds the taxpayer's tax liability for such tax year, the amount which exceeds the tax liability may be carried over for credit against the income taxes of such individual in the next five taxable years until the total amount of the tax credit has been taken.

C. For purposes of this section, the amount of any credit attributable to the purchase and installation of conservation tillage equipment by a partnership or electing small business corporation (S corporation) shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

*D. The provisions of this section shall expire on January 1, 2017.*

**§ 58.1-337. Tax credit for purchase of advanced technology pesticide and fertilizer application equipment.**

A. Any individual engaged in agricultural production for market who has in place a nutrient management plan approved by the local Soil and Water Conservation District by the required tax return filing date of the individual shall be allowed a credit against the tax imposed by § 58.1-320 of an amount equaling twenty-five percent of all expenditures made by such individual for the purchase of equipment certified by the Virginia Soil and Water Conservation Board as providing more precise pesticide and fertilizer application. Virginia Polytechnic Institute and State University and Virginia State University shall provide at the request of the Virginia Soil and Water Conservation Board technical assistance in determining appropriate specifications for certified equipment which would provide for more precise pesticide and fertilizer application to reduce the potential for adverse environmental impacts. The equipment shall be divided into the following categories:

1. Sprayers for pesticides and liquid fertilizers;
2. Pneumatic fertilizer applicators;
3. Monitors, computer regulators, and height adjustable booms for sprayers and liquid fertilizer applicators;
4. Manure applicators;
5. Tramline adapters; and
6. Starter fertilizer banding attachments for planters.

B. The amount of such credit shall not exceed \$3,750 or the total amount of the tax imposed by this chapter, whichever is less, in the year of purchase. If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount which exceeds the tax liability may be carried over for credit against the income taxes of such individual in the next five taxable years until the total amount of the tax credit has been taken.

C. For purposes of this section, the amount of any credit attributable to the purchase of equipment certified by the Virginia Soil and Water Conservation Board as providing more precise pesticide and

59 fertilizer application by a partnership or electing small business corporation (S corporation) shall be  
 60 allocated to the individual partners or shareholders in proportion to their ownership or interest in the  
 61 partnership or S corporation.

62 *D. The provisions of this section shall expire on January 1, 2017.*

63 **§ 58.1-339.2. Historic rehabilitation tax credit.**

64 A. Effective for taxable years beginning on and after January 1, 1997, any individual, trust or estate,  
 65 or corporation incurring eligible expenses in the rehabilitation of a certified historic structure shall be  
 66 entitled to a credit against the tax imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.) and  
 67 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of  
 68 Chapter 25; and Article 2 (§ 58.1-2620 et seq.) of Chapter 26, in accordance with the following  
 69 schedule:

70 Year	% of Eligible Expenses
71 1997	10%
72 1998	15%
73 1999	20%
74 2000 and thereafter	25%

75 If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount that  
 76 exceeds the tax liability may be carried over for credit against the taxes of such taxpayer in the next ten  
 77 taxable years or until the full credit is used, whichever occurs first. Credits granted to a partnership or  
 78 electing small business corporation (S corporation) shall be passed through to the partners or  
 79 shareholders, respectively. Credits granted to a partnership or electing small business corporation (S  
 80 corporation) shall be allocated among all partners or shareholders, respectively, either in proportion to  
 81 their ownership interest in such entity or as the partners or shareholders mutually agree as provided in  
 82 an executed document, the form of which shall be prescribed by the Director of the Department of  
 83 Historic Resources.

84 B. Effective for taxable years beginning on and after January 1, 2000, any individual, trust, estate, or  
 85 corporation resident in Virginia that incurs eligible expenses in the rehabilitation of a certified historic  
 86 structure in any other state that has in effect a reciprocal historic structure rehabilitation tax credit  
 87 program and agreement for residents of that state who rehabilitate historic structures in Virginia shall be  
 88 entitled to a credit to the same extent as provided in subsection A and other applicable provisions of  
 89 law; however, no eligible party shall receive any credit authorized under this subsection prior to taxable  
 90 years beginning on and after January 1, 2002.

91 C. To claim the credit authorized under this section, the taxpayer shall apply to the Virginia  
 92 Department of Historic Resources, which shall determine the amount of eligible rehabilitation expenses  
 93 and issue a certificate thereof to the taxpayer. The taxpayer shall attach the certificate to the Virginia tax  
 94 return on which the credit is claimed.

95 D. When used in this section:

96 "Certified historic structure" means a property listed individually on the Virginia Landmarks Register,  
 97 or certified by the Director of the Virginia Department of Historic Resources as contributing to the  
 98 historic significance of a historic district that is listed on the Virginia Landmarks Register or certified by  
 99 the Director of the Virginia Department of Historic Resources as meeting the criteria for listing on the  
 100 Virginia Landmarks Register.

101 "Eligible rehabilitation expenses" means expenses incurred in the material rehabilitation of a certified  
 102 historic structure and added to the property's capital account.

103 "Material rehabilitation" means improvements or reconstruction consistent with "The Secretary of the  
 104 Interior's Standards for Rehabilitation," the cost of which amounts to at least fifty percent of the  
 105 assessed value of such building for local real estate tax purposes for the year prior to the initial  
 106 expenditure of any rehabilitation expenses, unless the building is an owner-occupied building, in which  
 107 case the cost shall amount to at least twenty-five percent of the assessed value of such building for local  
 108 real estate tax purposes for the year prior to the initial expenditure of any rehabilitation expenses.

109 "Owner-occupied building" means any building that is used as a personal residence by the owner.

110 E. The Director of the Department of Historic Resources shall establish by regulation the  
 111 requirements needed for this program, including the fees to defray necessary expenses thereof, and,  
 112 except as otherwise prohibited by this section, the extent to which the availability of the credit provided  
 113 by this section is coextensive with the availability of the federal tax credit for the rehabilitation of  
 114 certified historic resources.

115 F. Any gain or income under federal law from the allocation or application of a tax credit under this  
 116 section shall not be (i) taxable gain or income for purposes of the tax imposed pursuant to Article 2  
 117 (§ 58.1-320 et seq.), (ii) taxable gain or income for purposes of the tax imposed pursuant to Article 6  
 118 (§ 58.1-360 et seq.), or (iii) taxable gain or income for purposes of the tax imposed pursuant to Article  
 119 10 (§ 58.1-400 et seq.). However, nothing in this subsection shall be construed or interpreted as allowing

a subtraction or deduction for such gain or income under federal law if the gain or income is otherwise excluded, deducted, or subtracted in computing the respective tax set forth under clauses (i) through (iii).

*G. The provisions of this section shall expire on January 1, 2017.*

**§ 58.1-339.3. Agricultural best management practices tax credit.**

A. For all taxable years beginning on and after January 1, 1998, any individual who is engaged in agricultural production for market, or has equines that create needs for agricultural best management practices to reduce nonpoint source pollutants, and has in place a soil conservation plan approved by the local Soil And Water Conservation District (SWCD), shall be allowed a credit against the tax imposed by § 58.1-320 of an amount equaling 25 percent of the first \$70,000 expended for agricultural best management practices by the individual.

As used in this section, "agricultural best management practice" means a practice approved by the Virginia Soil and Water Conservation Board (VSWCB) which will provide a significant improvement to water quality in the state's streams and rivers and the Chesapeake Bay and is consistent with other state and federal programs that address agricultural, nonpoint-source-pollution management. Eligible practices shall include, but are not limited to, the following:

1. Livestock-waste and poultry-waste management;
2. Soil erosion control;
3. Nutrient and sediment filtration and detention;
4. Nutrient management; and
5. Pest management and pesticide handling.

A detailed list of the standards and criteria for practices eligible for credit shall be found in the most recently approved "Virginia Agricultural BMP Manual" published annually prior to July 1 by the Department of Conservation and Recreation.

B. Any practice approved by the local Soil and Water Conservation District Board shall be completed within the taxable year in which the credit is claimed. After the practice installation has been completed, the local SWCD Board shall certify the practice as approved and completed, and eligible for credit. The applicant shall forward the certification to the Department of Taxation on forms provided by the Department. The credit shall be allowed only for expenditures made by the taxpayer from funds of his own sources.

C. 1. The amount of such credit shall not exceed \$17,500 or the total amount of the tax imposed by this chapter, whichever is less, in the year the project was completed, as certified by the Board. Any taxpayer claiming a tax credit under this section shall not claim a credit under any similar Virginia law for costs related to the same eligible practices.

2. If the amount of the credit exceeds the taxpayer's liability for such taxable year, the excess may be refunded by the Tax Commissioner. Tax credits shall be refunded by the Tax Commissioner on behalf of the Commonwealth for 100 percent of face value. Tax credits shall be refunded within 90 days after the filing date of the income tax return on which the individual applies for the refund.

D. For purposes of this section, the amount of any credit attributable to agricultural best management practices by a pass-through entity such as a partnership, limited liability company, or electing small business corporation (S Corporation) shall be allocated to the individual partners, members, or shareholders in proportion to their ownership or interest in such entity.

E. A pass-through tax entity, such as a partnership, limited liability company or electing small business corporation (S corporation), may appoint a tax matters representative, who shall be a general partner, member-manager or shareholder, and register that representative with the Tax Commissioner. The Tax Commissioner shall be entitled to deal with the tax matters representative as representative of the taxpayers to whom credits have been allocated by the entity under this article with respect to those credits. In the event a pass-through tax entity allocates tax credits arising under this article to its partners, members or shareholders and the allocated credits shall be disallowed, in whole or in part, such that an assessment of additional tax against a taxpayer shall be made, the Tax Commissioner shall first make written demand for payment of any additional tax, together with interest and penalties, from the tax matters representative. In the event such payment demand is not satisfied, the Tax Commissioner shall proceed to collection against the taxpayers in accordance with the provisions of Chapter 18 (§ 58.1-1800 et seq.).

*F. The provisions of this section shall expire on January 1, 2017.*

**§ 58.1-339.6. Political candidate contribution tax credit.**

A. For taxable years beginning on and after January 1, 2000, any individual shall be entitled to a credit against the tax levied pursuant to § 58.1-320 of an amount equal to fifty percent of the amount contributed by the taxpayer to a candidate, as defined in § 24.2-101, in one or more primary, special, or general elections for local or state office held in the Commonwealth in the taxable year in which the contributions are made. The amount of the credit shall not exceed twenty-five dollars for an individual taxpayer or fifty dollars for taxpayers filing a joint return.

*B. The provisions of this section shall expire on January 1, 2017.*

**§ 58.1-432. Tax credit for purchase of conservation tillage equipment.**

A. Any corporation shall be allowed a credit against the tax imposed by § 58.1-400 of an amount equaling 25 percent of all expenditures made for the purchase and installation of conservation tillage equipment used in agricultural production by the purchaser. As used in this section, the term "conservation tillage equipment" means a planter, drill, or other equipment used to reduce soil compaction commonly known as a "no-till" planter, drill, or other equipment used to reduce soil compaction including guidance systems to control traffic patterns that are designed to minimize disturbance of the soil in planting crops, including such planters, drills, or other equipment used to reduce soil compaction which may be attached to equipment already owned by the taxpayer.

B. The amount of such credit shall not exceed \$4,000 or the total amount of tax imposed by this chapter, whichever is less, in the year of purchase. If the amount of such credit exceeds the taxpayer's tax liability for such tax year, the amount which exceeds such tax liability may be carried over for credit against income taxes in the next five taxable years until the total amount of the tax credit has been taken.

C. For purposes of this section, the amount of any credit attributable to the purchase and installation of conservation tillage equipment by a partnership or electing small business corporation (S corporation) shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

*D. The provisions of this section shall expire on January 1, 2017.*

**§ 58.1-436. Tax credit for purchase of advanced technology pesticide and fertilizer application equipment.**

A. Any corporation engaged in agricultural production for market which has in place a nutrient management plan approved by the local Soil and Water Conservation District by the required tax return filing date of the corporation shall be allowed a credit against the tax imposed by § 58.1-400 of an amount equaling twenty-five percent of all expenditures made by such corporation for the purchase of equipment certified by the Virginia Soil and Water Conservation Board as providing more precise pesticide and fertilizer application. Virginia Polytechnic Institute and State University and Virginia State University shall provide at the request of the Virginia Soil and Water Conservation Board technical assistance in determining appropriate specifications for certified equipment which would provide for more precise pesticide and fertilizer application to reduce the potential for adverse environmental impacts. The equipment shall be divided into the following categories:

1. Sprayers for pesticides and liquid fertilizers;
2. Pneumatic fertilizer applicators;
3. Monitors, computer regulators, and height adjustable booms for sprayers and liquid fertilizer applicators;
4. Manure applicators;
5. Tramline adapters; and
6. Starter fertilizer banding attachments for planters.

B. The amount of such credit shall not exceed \$3,750 or the total amount of the tax imposed by this chapter, whichever is less, in the year of purchase. If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount which exceeds the tax liability may be carried over for credit against the income taxes of such corporation in the next five taxable years until the total amount of the tax credit has been taken. Credits granted to a partnership or electing small business corporation (S corporation) shall be passed through to the partners or shareholders, respectively.

C. For purposes of this section, the amount of any credit attributable to the purchase of equipment certified by the Virginia Soil and Water Conservation Board as providing more precise pesticide and fertilizer application by a partnership or S corporation shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

*D. The provisions of this section shall expire on January 1, 2017.*

**§ 58.1-438.1. Tax credit for vehicle emissions testing equipment, clean-fuel vehicles and certain refueling property.**

A. Any corporation, individual or public service corporation shall be allowed a credit against the income or gross receipts taxes imposed by Subtitle I (§ 58.1-100 et seq.) and Chapter 26 (§ 58.1-2600 et seq.) of Title 58.1 of (i) an amount equal to ten percent of the deduction allowed to such corporation, individual or public service corporation under Section 179A of the Internal Revenue Code for purchases of clean-fuel vehicles principally garaged in Virginia or certain refueling property placed in service in Virginia or ten percent of the costs used to compute the credit under Section 30 of the Internal Revenue Code and (ii) an amount equal to twenty percent of the purchase or lease price paid during the taxable year for equipment certified by the Department of Environmental Quality for vehicle emissions testing, located within, or within any county, city or town adjacent to, any county, city or town wherein implementation of an enhanced vehicle emissions inspection program, as defined in § 46.2-1176, is

required. Credits granted to a partnership or S corporation shall be passed through to the partners or shareholders, respectively. If the credit exceeds the tax liability in a year, the credit may be carried forward up to five succeeding years.

*B. The provisions of this section shall expire on January 1, 2017.*

**§ 58.1-439. Major business facility job tax credit.**

A. For taxable years beginning on and after January 1, 1995, but before January 1, 2020, 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 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 as set forth in this section.

B. 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.

C. A "major business facility" is a company that satisfies the following criteria:

1. Subject to the provisions of subsections K or L, the establishment or expansion of the company shall result in the creation of at least 50 jobs for qualified full-time employees; the first such 50 jobs shall be referred to as the "threshold amount"; and

2. The company is engaged in any business in the Commonwealth, except a retail trade business if such trade is the principal activity of an individual facility in the Commonwealth. Examples of types of major business facilities that are eligible for the credit provided under this section include, but are not limited to, a headquarters, or portion of such a facility, where company employees are physically employed, and where the majority of the company's financial, personnel, legal or planning functions are handled either on a regional or national basis. A company primarily engaged in the Commonwealth in the business of manufacturing or mining; agriculture, forestry or fishing; transportation or communications; or a public utility subject to the corporation income tax shall be deemed to have established or expanded a major business facility in the Commonwealth if it meets the requirements of subdivision 1 during a single taxable year and such facilities are not retail establishments. A major business facility shall also include facilities that perform central management or administrative activities, whether operated as a separate trade or business, or as a separate support operation of another business. Central management or administrative activities include, but are not limited to, general management; accounting; computing; tabulating; purchasing; transportation or shipping; engineering and systems planning; advertising; technical sales and support operations; central administrative offices and warehouses; research, development and testing laboratories; computer-programming, data-processing and other computer-related services facilities; and legal, financial, insurance, and real estate services. The terms used in this subdivision to refer to various types of businesses shall have the same meanings as those terms are commonly defined in the Standard Industrial Classification Manual.

D. For purposes of this section, the "credit year" is the first taxable year following the taxable year in which the major business facility commenced or expanded operations.

E. The Department of Taxation shall make all determinations as to the classification of a major business facility in accordance with the provisions of this section.

F. A "qualified full-time employee" means an employee filling a new, permanent full-time position in a major business facility in the Commonwealth. A "new, permanent full-time position" is a job of an indefinite duration, created by the company as a result of the establishment or expansion of a major business facility in the Commonwealth, requiring a minimum of 35 hours of an employee's time a week for the entire normal year of the company's operations, which "normal year" shall consist of at least 48 weeks, or a position of indefinite duration which requires a minimum of 35 hours of an employee's time a week for the portion of the taxable year in which the employee was initially hired for, or transferred to, the major business facility in the Commonwealth. Seasonal or temporary positions, or a job created when a job function is shifted from an existing location in the Commonwealth to the new major business facility and positions in building and grounds maintenance, security, and other such positions which are ancillary to the principal activities performed by the employees at a major business facility shall not qualify as new, permanent full-time positions.

G. For any major business facility, the amount of credit earned pursuant to this section shall be equal to \$1,000 per qualified full-time employee, over the threshold amount, employed during the credit year. The credit shall be allowed ratably, with one-third of the credit amount allowed annually for three years beginning with the credit year. However, for taxable years beginning January 1, 2009, through December 31, 2014, one-half of the credit amount shall be allowed each year for two years. The portion of the \$1,000 credit earned with respect to any qualified full-time employee who is employed in the Commonwealth for less than 12 full months during the credit year will be determined by multiplying the credit amount by a fraction, the numerator of which is the number of full months that the qualified

304 full-time employee worked for the major business facility in the Commonwealth during the credit year,  
305 and the denominator of which is 12. A separate credit year and a three-year allowance period shall exist  
306 for each distinct major business facility of a single taxpayer, except for credits allowed for taxable years  
307 beginning January 1, 2009, through December 31, 2014, when a two-year allowance period shall exist  
308 for each distinct major business facility of a single taxpayer.

309 H. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such  
310 taxable year. Any credit not usable for the taxable year the credit was allowed may be, to the extent  
311 usable, carried over for the next 10 succeeding taxable years. No credit shall be carried back to a  
312 preceding taxable year. In the event that a taxpayer who is subject to the tax limitation imposed  
313 pursuant to this subsection is allowed another credit pursuant to any other section of the Code of  
314 Virginia, or has a credit carryover from a preceding taxable year, such taxpayer shall be considered to  
315 have first utilized any credit allowed which does not have a carryover provision, and then any credit  
316 which is carried forward from a preceding taxable year, prior to the utilization of any credit allowed  
317 pursuant to this section.

318 I. No credit shall be earned pursuant to this section for any employee (i) for whom a credit under  
319 this section was previously earned by a related party as defined by Internal Revenue Code § 267(b) or a  
320 trade or business under common control as defined by Internal Revenue Code § 52(b); (ii) who was  
321 previously employed in the same job function in Virginia by a related party as defined by Internal  
322 Revenue Code § 267(b) or a trade or business under common control as defined by Internal Revenue  
323 Code § 52(b); (iii) whose job function was previously performed at a different location in Virginia by an  
324 employee of the taxpayer, a related party as defined by Internal Revenue Code § 267(b), or a trade or  
325 business under common control as defined by Internal Revenue Code § 52(b); or (iv) whose job function  
326 previously qualified for a credit under this section at a different major business facility on behalf of the  
327 taxpayer, a related party as defined by Internal Revenue Code § 267(b), or a trade or business under  
328 common control as defined by Internal Revenue Code § 52(b).

329 J. Subject to the provisions of subsections K or L, recapture of this credit, under the following  
330 circumstances, shall be accomplished by increasing the tax in any of the five years succeeding the  
331 taxable year in which a credit has been earned pursuant to this section if the number of qualified  
332 full-time employees decreases below the average number of qualified full-time employees employed  
333 during the credit year. Such tax increase amount shall be determined by (i) recomputing the credit which  
334 would have been earned for the original credit year using the decreased number of qualified full-time  
335 employees and (ii) subtracting such recomputed credit from the amount of credit previously earned. In  
336 the event that the average number of qualifying full-time employees employed at a major business  
337 facility falls below the threshold amount in any of the five taxable years succeeding the credit year, all  
338 credits earned with respect to such major business facility shall be recaptured. No credit amount will be  
339 recaptured more than once pursuant to this subsection. Any recapture pursuant to this section shall  
340 reduce credits earned but not yet allowed, and credits allowed but carried forward, before the taxpayer's  
341 tax liability may be increased.

342 K. In the event that a major business facility is located in an economically distressed area or in an  
343 enterprise zone as defined in Chapter 49 (§ 59.1-538 et seq.) of Title 59.1 during a credit year, the  
344 threshold amount required to qualify for a credit pursuant to this section and to avoid full recapture shall  
345 be reduced from 50 to 25 for purposes of subdivision C 1 and subsection J. An area shall qualify as  
346 economically distressed if it is a city or county with an unemployment rate for the preceding year of at  
347 least 0.5 percent higher than the average statewide unemployment rate for such year. The Virginia  
348 Economic Development Partnership shall identify and publish a list of all economically distressed areas  
349 at least annually.

350 L. For taxable years beginning on or after January 1, 2004, but before January 1, 2006, in the event  
351 that a major business facility is located in a severely economically distressed area, the threshold amount  
352 required to qualify for a credit pursuant to this section and to avoid full recapture shall be reduced from  
353 100 to 25 for purposes of subdivision C 1 and subsection J. However, the total amount of credit  
354 allowable under this subsection shall not exceed \$100,000 in aggregate. An area shall qualify as severely  
355 economically distressed if it is a city or county with an unemployment rate for the preceding year of at  
356 least twice the average statewide unemployment rate for such year. The Virginia Economic Development  
357 Partnership shall identify and publish a list of all severely economically distressed areas at least  
358 annually.

359 M. The Tax Commissioner shall promulgate regulations, in accordance with the Administrative  
360 Process Act (§ 2.2-4000 et seq.), relating to (i) the computation, carryover, and recapture of the credit  
361 provided under this section; (ii) defining criteria for (a) a major business facility, (b) qualifying full-time  
362 employees at such facility, and (c) economically distressed areas; and (iii) the computation, carryover,  
363 recapture, and redemption of the credit by affiliated companies pursuant to subsection S.

364 N. The provisions of this section shall apply only in instances where an announcement of intent to  
365 establish or expand a major business facility is made on or after January 1, 1994. An announcement of

intent to establish or expand a major business facility includes, but is not limited to, a press conference or extensive press coverage, providing information with respect to the impact of the project on the economy of the area where the major business facility is to be established or expanded and the Commonwealth as a whole.

O. The credit allowed pursuant to this section shall be granted to the person who pays taxes for the qualified full-time employees pursuant to Chapter 5 (§ 60.2-500 et seq.) of Title 60.2.

P. No person shall claim a credit allowed pursuant to this section and the credit allowed pursuant to § 58.1-439.2. Any qualified business firm receiving an enterprise zone job creation grant under § 59.1-547 shall not be eligible to receive a major business facility job tax credit pursuant to this section for any job used to qualify for the enterprise zone job creation grant.

Q. No person operating a business in the Commonwealth pursuant to Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 shall claim a credit pursuant to this section.

R. Notwithstanding subsection O, a taxpayer may, for the purpose of determining the number of qualified full-time employees at a major business facility, include the employees of a contractor or a subcontractor if such employees are permanently assigned to the taxpayer's major business facility. If the taxpayer includes the employees of a contractor or subcontractor in its total of qualified full-time employees, it shall enter into a contractual agreement with the contractor or subcontractor prohibiting the contractor or subcontractor from also claiming these employees in order to receive a credit given under this section. The taxpayer shall provide evidence satisfactory to the Department of Taxation that it has entered into such a contract.

S. For purposes of satisfying the criteria of subdivision C 1, two or more affiliated companies may elect to aggregate the number of jobs created for qualified full-time employees as the result of the establishment or expansion by the individual companies in order to qualify for the credit allowed pursuant to this section. For purposes of this subsection, "affiliated companies" means two or more companies related to each other such that (i) one company owns at least 80 percent of the voting power of the other or others or (ii) at least 80 percent of the voting power of two or more companies is owned by the same interests.

T. The General Assembly of Virginia finds that modern business infrastructure allows businesses to locate their administrative or manufacturing facilities with minimal regard to the location of markets or the transportation of raw materials and finished goods, and that the economic vitality of the Commonwealth would be enhanced if such facilities were established in Virginia. Accordingly, the provisions of this section targeting the credit to major business facilities and limiting the credit to those companies which establish a major business facility in Virginia are integral to the purpose of the credit earned pursuant to this section and shall not be deemed severable.

*U. The provisions of this section shall expire on January 1, 2017.*

**§ 58.1-609.1. Governmental and commodities exemptions.**

A. 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.). 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.

2. Motor vehicles, trailers, semitrailers, mobile homes and travel trailers.

3. Gas, electricity, or water when delivered to consumers through mains, lines, or pipes.

4. Tangible personal property for use or consumption by the Commonwealth, any political subdivision of the Commonwealth, or the United States. This exclusion shall not apply to sales and leases to privately owned financial and other privately owned corporations chartered by the United States. Further, this exemption shall not apply to tangible personal property which is acquired by the Commonwealth or any of its political subdivisions and then transferred to private businesses for their use in a facility or real property improvement to be used by a private entity or for nongovernmental purposes other than tangible personal property acquired by the Herbert H. Bateman Advanced Shipbuilding and Carrier Integration Center and transferred to a Qualified Shipbuilder as defined in the third enactment of Chapter 790 of the 1998 Acts of the General Assembly.

5. Aircraft subject to tax under Chapter 15 (§ 58.1-1500 et seq.).

6. Motor fuels and alternative fuels for use in a commercial watercraft, as defined in § 58.1-2201, upon which a fuel tax is refunded pursuant to § 58.1-2259.

7. Sales by a government agency of the official flags of the United States, the Commonwealth of Virginia, or of any county, city or town.

8. Materials furnished by the State Board of Elections pursuant to §§ 24.2-404 through 24.2-407.

9. Watercraft as defined in § 58.1-1401.

10. Tangible personal property used in and about a marine terminal under the supervision of the Virginia Port Authority for handling cargo, merchandise, freight and equipment. This exemption shall

427 apply to agents, lessees, sublessees or users of tangible personal property owned by or leased to the  
428 Virginia Port Authority and to property acquired or used by the Authority or by a nonstock, nonprofit  
429 corporation that operates a marine terminal or terminals on behalf of the Authority.

430 11. Sales by prisoners confined in state correctional facilities of artistic products personally made by  
431 the prisoners as authorized by § 53.1-46.

432 12. Tangible personal property for use or consumption by the Virginia Department for the Blind and  
433 Vision Impaired or any nominee, as defined in § 51.5-60, of such Department.

434 13. [Expired.]

435 14. Tangible personal property sold to residents and patients of the Virginia Veterans Care Center at  
436 a canteen operated by the Department of Veterans Services.

437 15. Tangible personal property for use or consumption by any nonprofit organization whose members  
438 include the Commonwealth and other states and which is organized for the purpose of fostering  
439 interstate cooperation and excellence in government.

440 16. Tangible personal property purchased for use or consumption by any soil and conservation  
441 district which is organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter  
442 5 of Title 10.1.

443 17. Tangible personal property sold or leased to Alexandria Transit Company, Greater Lynchburg  
444 Transit Company, GRTC Transit System, or Greater Roanoke Transit Company, or to any other transit  
445 company that is owned, operated, or controlled by any county, city, or town, or any combination  
446 thereof, that provides public transportation services, and/or tangible personal property sold or leased to  
447 any county, city, or town, or any combination thereof, that is transferred to any of the companies set  
448 forth in this subdivision owned, operated, or controlled by any county, city, or town, or any combination  
449 thereof, that provides public transportation services.

450 18. (Effective until July 1, 2017) Qualified products designated as Energy Star or WaterSense with a  
451 sales price of \$2,500 or less per product purchased for noncommercial home or personal use. The  
452 exemption provided by this subdivision shall apply only to sales occurring during the four-day period  
453 that begins each year on the Friday before the second Monday in October and ends at midnight on the  
454 second Monday in October.

455 For the purposes of this exemption, an Energy Star qualified product is any dishwasher, clothes  
456 washer, air conditioner, ceiling fan, compact fluorescent light bulb, dehumidifier, programmable  
457 thermostat, or refrigerator, the energy efficiency of which has been designated by the United States  
458 Environmental Protection Agency and the United States Department of Energy as meeting or exceeding  
459 each such agency's requirements under the Energy Star program. For the purposes of this exemption,  
460 WaterSense qualified products are those that have been recognized as being water efficient by the  
461 WaterSense program sponsored by the U.S. Environmental Protection Agency as indicated by a  
462 WaterSense label.

463 *B. Subdivisions A 10 through 17 shall expire on July 1, 2017.*

464 **2. That fifty percent of the revenue attributable to the expiration of any tax credit or exemption**  
465 **pursuant to this act shall be used to reduce the corporate income tax rate by a concomitant**  
466 **amount, and fifty percent shall be used to reduce the individual income tax rates by a concomitant**  
467 **amount.**