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**HOUSE BILL NO. 889**  
Offered January 10, 2024  
Prefiled January 9, 2024

A *BILL to amend and reenact §§ 58.1-602, 58.1-603, as it is currently effective and as it may become effective, 58.1-603.1, as it is currently effective and as it may become effective, 58.1-603.2, 58.1-604.01, as it is currently effective and as it may become effective, 58.1-605.1, 58.1-606.1, 58.1-609.5, 58.1-609.11, 58.1-611.1, 58.1-612, 58.1-623, 58.1-638, 58.1-647, and 58.1-648, relating to sales and use tax on services.*

Patron—Watts

Referred to Committee on Subcommittee #3

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

**1. That §§ 58.1-602, 58.1-603, as it is currently effective and as it may become effective, 58.1-603.1, as it is currently effective and as it may become effective, 58.1-603.2, 58.1-604.01, as it is currently effective and as it may become effective, 58.1-605.1, 58.1-606.1, 58.1-609.5, 58.1-609.11, 58.1-611.1, 58.1-612, 58.1-623, 58.1-638, 58.1-647, and 58.1-648 of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-602. Definitions.**

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

"Accommodations" means any room or rooms, lodgings, or accommodations in any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, short-term rental, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration. "Accommodations" does not include rooms or space offered by a person in the business of providing conference rooms, meeting space, or event space if the person does not also offer rooms available for overnight sleeping.

"Accommodations fee" means the room charge less the discount room charge, if any, provided that the accommodations fee shall not be less than \$0.

"Accommodations intermediary" means any person other than an accommodations provider that (i) facilitates the sale of an accommodation and (ii) either (a) charges a room charge to the customer, and charges an accommodations fee to the customer, which fee it retains as compensation for facilitating the sale; (b) collects a room charge from the customer; or (c) charges a fee, other than an accommodations fee, to the customer, which fee it retains as compensation for facilitating the sale. For purposes of this definition, "facilitates the sale" includes brokering, coordinating, or in any other way arranging for the purchase of the right to use accommodations via a transaction directly, including via one or more payment processors, between a customer and an accommodations provider.

"Accommodations intermediary" does not include a person:

1. If the accommodations are provided by an accommodations provider operating under a trademark, trade name, or service mark belonging to such person;

2. Who facilitates the sale of an accommodation if (i) the price paid by the customer to such person is equal to the price paid by such person to the accommodations provider for the use of the accommodations and (ii) the only compensation received by such person for facilitating the sale of the accommodation is a commission paid from the accommodations provider to such person; or

3. Who is licensed as a real estate licensee pursuant to Article 1 (§ 54.1-2100 et seq.) of Chapter 21 of Title 54.1, when acting within the scope of such license.

"Accommodations provider" means any person that furnishes accommodations to the general public for compensation. The term "furnishes" includes the sale of use or possession or the sale of the right to use or possess.

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

"Affiliate" means the same as such term is defined in § 58.1-439.18.

"Amplification, transmission, distribution, and network equipment" means production, distribution, and other equipment used to provide Internet-access services, such as computer and communications equipment and software used for storing, processing, and retrieving end-user subscribers' requests. A "network" includes modems, fiber optic cables, coaxial cables, radio equipment, routing equipment, switching equipment, a cable

59 modem termination system, associated software, transmitters, power equipment, storage devices, servers,  
60 multiplexers, and antennas, which network is used to provide Internet service, regardless of whether the  
61 provider of such service is also a telephone common carrier or whether such network is also used to provide  
62 services other than Internet services.

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

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

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

72 "*Digital personal property*" means digital products delivered electronically, including software, digital  
73 audio and audiovisual products, reading materials, and other data or applications, that the purchaser owns  
74 or has the ability to continually access, whether by downloading, streaming, or otherwise accessing the  
75 content, without having to pay an additional subscription or usage fee to the seller after paying the initial  
76 purchase price.

77 "Discount room charge" means the full amount charged by the accommodations provider to the  
78 accommodations intermediary, or an affiliate thereof, for furnishing the accommodations.

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

84 "Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of  
85 tangible personal property or for furnishing taxable services, computed with the same deductions, where  
86 applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use, but  
87 not less frequently than monthly. "Gross proceeds" does not include finance charges, carrying charges,  
88 service charges, or interest from credit extended on the lease or rental of tangible personal property under  
89 conditional lease or rental contracts or other conditional contracts providing for the deferred payments of the  
90 lease or rental price.

91 "Gross sales" means the sum total of all retail sales of tangible personal property or taxable services as  
92 defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" does not  
93 include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the Internal  
94 Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or the  
95 Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § 58.1-605 or  
96 58.1-606.

97 "Import" and "imported" are words applicable to taxable services or tangible personal property imported  
98 into the Commonwealth from other states as well as from foreign countries, and "export" and "exported" are  
99 words applicable to taxable services or tangible personal property exported from the Commonwealth to other  
100 states as well as to foreign countries.

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

103 "Integrated process," when used in relation to semiconductor manufacturing, means a process that begins  
104 with the research or development of semiconductor products, equipment, or processes, includes the handling  
105 and storage of raw materials at a plant site, and continues to the point that the product is packaged for final  
106 sale and either shipped or conveyed to a warehouse. Without limiting the foregoing, any semiconductor  
107 equipment, fuel, power, energy, supplies, or other tangible personal property shall be deemed used as part of  
108 the integrated process if its use contributes, before, during, or after production, to higher product quality,  
109 production yields, or process efficiencies. Except as otherwise provided by law, "integrated process" does not  
110 mean general maintenance or administration.

111 "Internet" means, collectively, the myriad of computer and telecommunications facilities, which comprise  
112 the interconnected worldwide network of computer networks that employ the Transmission Control  
113 Protocol/Internet Protocol, or any predecessor or successor to such protocol, to communicate information of  
114 all kinds by wire or radio.

115 "Internet service" means a service that enables users to access content, information, and other services  
116 offered over the Internet.

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

119 "Manufacturing, processing, refining, or conversion" includes the production line of the plant starting with

120 the handling and storage of raw materials at the plant site and continuing through the last step of production  
 121 where the product is finished or completed for sale and conveyed to a warehouse at the production site, and  
 122 also includes equipment and supplies used for production line testing and quality control. "Manufacturing"  
 123 also includes the necessary ancillary activities of newspaper and magazine printing when such activities are  
 124 performed by the publisher of any newspaper or magazine for sale daily or regularly at average intervals not  
 125 exceeding three months.

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

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

141 "Modular building manufacturer" means a person that owns or operates a manufacturing facility and is  
 142 engaged in the fabrication, construction and assembling of building supplies and materials into modular  
 143 buildings, as defined in this section, at a location other than at the site where the modular building will be  
 144 assembled on the permanent foundation and may or may not be engaged in the process of affixing the  
 145 modules to the foundation at the permanent site.

146 "Modular building retailer" means any person that purchases or acquires a modular building from a  
 147 modular building manufacturer, or from another person, for subsequent sale to a customer residing within or  
 148 outside of the Commonwealth, with or without installation of the modular building to the foundation at the  
 149 permanent site.

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

153 "Occasional sale" means a sale of a *taxable service or* tangible personal property not *provided*, held, or  
 154 used by a seller in the course of an activity for which it is required to hold a certificate of registration,  
 155 including the sale or exchange of all or substantially all the assets of any business and the reorganization or  
 156 liquidation of any business, provided that such sale or exchange is not one of a series of sales and exchanges  
 157 sufficient in number, scope and character to constitute an activity requiring the holding of a certificate of  
 158 registration.

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

162 "Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation,  
 163 joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver, auctioneer,  
 164 syndicate, assignee, club, society, or other group or combination acting as a unit, body politic or political  
 165 subdivision, whether public or private, or quasi-public, and the plural of "person" means the same as the  
 166 singular.

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

170 "Qualifying locality" means Charlotte County, Gloucester County, Halifax County, Henry County,  
 171 Mecklenburg County, Northampton County, Patrick County, Pittsylvania County, or the City of Danville.

172 "Railroad rolling stock" means locomotives, of whatever motive power, autocars, railroad cars of every  
 173 kind and description, and all other equipment determined by the Tax Commissioner to constitute railroad  
 174 rolling stock.

175 "Remote seller" means any dealer deemed to have sufficient activity within the Commonwealth to require  
 176 registration under § 58.1-613 under the criteria specified in subdivision C 10 or 11 of § 58.1-612 or any  
 177 software provider acting on behalf of such dealer.

178 "Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in the  
 179 form of a *taxable service or* tangible personal property ~~or services taxable under this chapter~~, and shall  
 180 ~~include~~ include any such transaction as the Tax Commissioner upon investigation finds to be in lieu of a

181 sale. All sales for resale must be made in strict compliance with regulations applicable to this chapter. Any  
182 dealer making a sale for resale ~~which~~ that is not in strict compliance with such regulations shall be personally  
183 liable for payment of the tax.

184 The terms "retail sale" and a "sale at retail" specifically include the following: (i) the sale or charges for  
185 any accommodations furnished to transients for less than 90 continuous days; (ii) sales of tangible personal  
186 property to persons for resale when because of the operation of the business, or its very nature, or the lack of  
187 a place of business in which to display a certificate of registration, or the lack of a place of business in which  
188 to keep records, or the lack of adequate records, or because such persons are minors or transients, or because  
189 such persons are engaged in essentially service businesses, or for any other reason there is likelihood that the  
190 Commonwealth will lose tax funds due to the difficulty of policing such business operations; (iii) the  
191 separately stated charge made for automotive refinish repair materials that are permanently applied to or  
192 affixed to a motor vehicle during its repair; and (iv) the separately stated charge for equipment available for  
193 lease or purchase by a provider of satellite television programming to the customer of such programming.  
194 Equipment sold to a provider of satellite television programming for subsequent lease or purchase by the  
195 customer of such programming shall be deemed a sale for resale. The Tax Commissioner is authorized to  
196 promulgate regulations requiring vendors of or sellers to such persons to collect the tax imposed by this  
197 chapter on the cost price of such tangible personal property to such persons and may refuse to issue  
198 certificates of registration to such persons. The terms "retail sale" and a "sale at retail" also specifically  
199 include the separately stated charge made for supplies used during automotive repairs whether or not there is  
200 transfer of title or possession of the supplies and whether or not the supplies are attached to the automobile.  
201 The purchase of such supplies by an automotive repairer for sale to the customer of such repair services shall  
202 be deemed a sale for resale.

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

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

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

216 "Room charge" means the full retail price charged to the customer for the use of the accommodations  
217 before taxes. "Room charge" includes any fee charged to the customer and retained as compensation for  
218 facilitating the sale, whether described as an accommodations fee, facilitation fee, or any other name. The  
219 room charge shall be determined in accordance with 23VAC10-210-730 and the related rulings of the  
220 Department on the same.

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

229 "Sales price" means the total amount for which ~~taxable services or~~ tangible personal property ~~or services~~  
230 ~~are~~ is sold, including any *taxable* services that are a part of the sale, valued in money, whether paid in money  
231 or otherwise, and includes any amount for which credit is given to the purchaser, consumer, or lessee by the  
232 dealer, without any deduction therefrom on account of the cost of the property sold, the cost of materials  
233 used, labor or service costs, losses or any other expenses whatsoever. "Sales price" does not include (i) any  
234 cash discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from credit  
235 extended on sales of tangible personal property under conditional sale contracts or other conditional contracts  
236 providing for deferred payments of the purchase price; (iii) separately stated local property taxes collected;  
237 (iv) that portion of the amount paid by the purchaser as a discretionary gratuity added to the price of a meal;  
238 or (v) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by a  
239 restaurant to the price of a meal, but only to the extent that such mandatory gratuity or service charge does  
240 not exceed 20 percent of the price of the meal. Where used articles are taken in trade, or in a series of trades  
241 as a credit or part payment on the sale of new or used articles, the tax levied by this chapter shall be paid on

242 the net difference between the sales price of the new or used articles and the credit for the used articles.

243 "Semiconductor cleanrooms" means the integrated systems, fixtures, piping, partitions, flooring, lighting,  
244 equipment, and all other property used to reduce contamination or to control airflow, temperature, humidity,  
245 vibration, or other environmental conditions required for the integrated process of semiconductor  
246 manufacturing.

247 "Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii) the  
248 related accessories, components, pedestals, bases, or foundations used in connection with the operation of the  
249 equipment, without regard to the proximity to the equipment, the method of attachment, or whether the  
250 equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other property or supplies  
251 used to install, test, calibrate or recalibrate, characterize, condition, measure, or maintain the equipment and  
252 settings thereof; and (iv) equipment and supplies used for quality control testing of product, materials,  
253 equipment, or processes; or the measurement of equipment performance or production parameters regardless  
254 of where or when the quality control, testing, or measuring activity takes place, how the activity affects the  
255 operation of equipment, or whether the equipment and supplies come into contact with the product.

256 "Short-term rental" means the same as such term is defined in § 15.2-983.

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

260 "*Streaming*" means a method of transmitting or receiving video and audio data over a computer network  
261 as a steady, continuous flow, allowing playback to proceed while subsequent data is being received.

262 "Tangible personal property" means personal property that may be seen, weighed, measured, felt, or  
263 touched, or is in any other manner perceptible to the senses. "Tangible personal property" does not include  
264 stocks, bonds, notes, insurance or other obligations or securities. "Tangible personal property" includes (i)  
265 telephone calling cards upon their initial sale, which shall be exempt from all other state and local utility  
266 taxes, and (ii) manufactured signs and (ii) digital personal property.

267 "*Taxable service*" means any of the following services used or consumed in the Commonwealth:

- 268 1. Admissions charged for attendance at any event or place of amusement or entertainment;
- 269 2. Charges to use any recreation, fitness, or sports facilities, including membership fees and dues;
- 270 3. Nonmedical personal services or counseling, including (i) hair care, nail care, skin care, cosmetology,  
271 beauty, tanning, exercise, nutrition, weight control, sensory stimulation, or relaxation services or counseling  
272 and (ii) piercing, tattooing, exfoliation, implants, and other cosmetic body modifications. Nonmedical  
273 personal services or counseling shall not include surgical procedures or separately billed services that must  
274 be performed by or under the direction of a person licensed or certified by a board within the Department of  
275 Health Professions, pursuant to Subtitle III (§ 54.1-2400 et seq.) of Title 54.1;
- 276 4. Dry cleaning and laundry services, and garment and shoe repairs and alterations;
- 277 5. Companion animal care, including grooming, boarding, walking, training, and feeding. Companion  
278 animal care shall not include veterinary medical procedures or separately billed services that must be  
279 performed by or under the direction of a person licensed or certified by the Board of Veterinary Medicine  
280 pursuant to Chapter 38 (§ 54.1-3800 et seq.) of Title 54.1;
- 281 6. Residential home repair or maintenance, including carpentry, painting, plumbing, electrical, and  
282 HVAC, when the work performed does not require a state or local permit and is paid for directly by a  
283 resident or homeowner;
- 284 7. Residential landscaping services, including landscaping design and maintenance, lawn services, or tree  
285 removal, when paid for directly by a resident or homeowner;
- 286 8. Residential cleaning services, including housekeeping, rug cleaning, upholstery cleaning and dyeing,  
287 window cleaning, power washing, and servicing of swimming pools, when paid for directly by a resident or  
288 homeowner;
- 289 9. Vehicle and engine repair, maintenance, cleaning, painting, and remodeling;
- 290 10. Repairs or alterations to tangible personal property or the functioning thereof, including appliances,  
291 electronics, computers, jewelry, watches, musical instruments, and art;
- 292 11. Delivery or shipping services, including wrapping and packing;
- 293 12. Storage of tangible personal property, including climate-controlled storage and self-storage;
- 294 13. Travel, event, and aesthetic planning services that are separately billed from the sale of product,  
295 including travel agents, event planning, catering, and interior design services; and
- 296 14. Communications services that are not subject to the tax imposed pursuant to Chapter 6.2 (§ 58.1-645  
297 et seq.) and are not digital personal property. For purposes of this subdivision, "communications services"  
298 means the same as that term is defined in § 58.1-647.

299 "*Taxable service*" does not include any service otherwise exempt under this chapter.

300 "Use" means the exercise of any right or power over tangible personal property incident to the ownership  
301 thereof, except that it does not include the sale at retail of that property in the regular course of business.  
302 "Use" does not include the exercise of any right or power, including use, distribution, or storage, over any

303 tangible personal property sold to a nonresident donor for delivery outside of the Commonwealth to a  
 304 nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via mail or  
 305 telephone. "Use" does not include any sale determined to be a gift transaction, subject to tax under § 58.1-  
 306 604.6.

307 "Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as defined in this  
 308 section.

309 "Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to  
 310 those activities that are an integral part of the production of a product, including all steps of an integrated  
 311 manufacturing or mining process, but not including ancillary activities such as general maintenance or  
 312 administration. When used in relation to mining, "used directly" refers to the activities specified in this  
 313 definition and, in addition, any reclamation activity of the land previously mined by the mining company  
 314 required by state or federal law.

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

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

318 **§ 58.1-603. (Contingent expiration date) Imposition of sales tax.**

319 There is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by  
 320 law, a license or privilege tax upon every person who engages in the business of selling at retail ~~or~~,  
 321 distributing, *leasing, renting, or furnishing taxable services or* tangible personal property in this  
 322 Commonwealth; ~~or who rents or furnishes any of the things or services taxable under this chapter,~~ or who  
 323 stores for use or consumption in this Commonwealth any item or article of tangible personal property as  
 324 defined in this chapter, ~~or who leases or rents such property within this Commonwealth,~~ in the amount of 4.3  
 325 percent:

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

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

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

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

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

336 **§ 58.1-603. (Contingent effective date) Imposition of sales tax.**

337 There is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by  
 338 law, a license or privilege tax upon every person who engages in the business of selling at retail ~~or~~,  
 339 distributing, *leasing, renting, or furnishing taxable services or* tangible personal property in this  
 340 Commonwealth; ~~or who rents or furnishes any of the things or services taxable under this chapter,~~ or who  
 341 stores for use or consumption in this Commonwealth any item or article of tangible personal property as  
 342 defined in this chapter; ~~or who leases or rents such property within this Commonwealth,~~ in the amount of  
 343 ~~three and one-half~~ 3.5 percent through midnight on July 31, 2004, and four percent beginning on and after  
 344 August 1, 2004:

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

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

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

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

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

355 **§ 58.1-603.1. (Contingent expiration date) Additional state sales tax in certain counties and cities.**

356 A. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in each  
 357 county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title  
 358 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more as shown by the most recent  
 359 United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit  
 360 ridership of not less than 15 million riders per year across all transit systems within the Planning District or  
 361 (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and  
 362 also meets the vehicle registration and ridership criteria set forth in clause (i), a retail sales tax at the rate of  
 363 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective

364 beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.  
 365 B. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in each  
 366 county and city located in Planning District 15 established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of  
 367 Title 15.2 a retail sales tax at the rate of 0.70 percent. In no case shall an additional sales tax be imposed  
 368 pursuant to both clause (ii) of subsection A and this subsection.

369 C. The tax imposed pursuant to subsections A and B ~~shall not be levied upon food purchased for human~~  
 370 ~~consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1. Such tax~~  
 371 shall be added to the rate of the state sales tax imposed pursuant to § 58.1-603 in each such county and city  
 372 and shall be subject to all the provisions of this chapter and the rules and regulations published with respect  
 373 thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall  
 374 be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties  
 375 as provided for the state sales tax under § 58.1-603.

376 D. The revenue generated and collected pursuant to the tax authorized under this section, less the  
 377 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds  
 378 established by law. In the case of Planning District 8, the revenue generated and collected therein shall be  
 379 deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue generated  
 380 and collected therein shall be deposited into the fund established in § 33.2-2600. In the case of Planning  
 381 District 15, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-  
 382 3701. For additional planning districts that may become subject to this section, funds shall be established by  
 383 appropriate legislation.

384 **§ 58.1-603.1. (Contingent effective date) Additional state sales tax in certain counties and cities.**

385 In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in each  
 386 county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title  
 387 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more as shown by the most recent  
 388 United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit  
 389 ridership of not less than 15 million riders per year across all transit systems within the Planning District or  
 390 (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and  
 391 also meets the vehicle registration and ridership criteria set forth in clause (i), a retail sales tax at the rate of  
 392 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective  
 393 beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.  
 394 ~~Such tax shall not be levied upon food purchased for human consumption and essential personal hygiene~~  
 395 ~~products, as such terms are defined in § 58.1-611.1. Such tax shall be added to the rate of the state sales tax~~  
 396 imposed pursuant to § 58.1-603 in each such county and city and shall be subject to all the provisions of this  
 397 chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be  
 398 allowed for the tax imposed under this section. Such tax shall be administered and collected by the Tax  
 399 Commissioner in the same manner and subject to the same penalties as provided for the state sales tax under  
 400 § 58.1-603.

401 The revenue generated and collected pursuant to the tax authorized under this section, less the applicable  
 402 portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds established by  
 403 law. In the case of Planning District 8, the revenue generated and collected therein shall be deposited into the  
 404 fund established in § 33.2-2509. In the case of Planning District 23, the revenue generated and collected  
 405 therein shall be deposited into the fund established in § 33.2-2600. For additional Planning Districts that may  
 406 become subject to this section, funds shall be established by appropriate legislation.

407 **§ 58.1-603.2. (For contingent expiration date, see Acts 2018, c. 850) Additional state sales and use**  
 408 **tax in certain counties and cities of historic significance; Historic Triangle Marketing Fund.**

409 A. For purposes of this section:

410 "Historic Triangle" means all of the City of Williamsburg and the Counties of James City and York.

411 "Historic Triangle Recreational Facilities Authority" means a regional government entity created by the  
 412 City of Williamsburg and the Counties of James City and York for the purpose of developing and managing  
 413 recreational facilities for the benefit of such localities' residents and visitors.

414 B. In addition to the sales tax imposed pursuant to §§ 58.1-603 and 58.1-603.1, there is hereby levied and  
 415 imposed in the Historic Triangle a retail sales tax at the rate of one percent. ~~Such tax shall not be levied upon~~  
 416 ~~food purchased for human consumption and essential personal hygiene products, as such terms are defined in~~  
 417 ~~§ 58.1-611.1. Such tax shall be added to the rate of the state sales tax imposed pursuant to §§ 58.1-603 and~~  
 418 58.1-603.1 in each such county and city and shall be subject to all the provisions of this chapter and the rules  
 419 and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax  
 420 imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the  
 421 same manner and subject to the same penalties as provided for the state sales tax under § 58.1-603.

422 C. In addition to the use tax imposed pursuant to §§ 58.1-604 and 58.1-604.01, there is hereby levied and  
 423 imposed in the Historic Triangle a retail use tax at the rate of one percent. ~~Such tax shall not be levied upon~~  
 424 ~~food purchased for human consumption and essential personal hygiene products, as such terms are defined in~~

425 § ~~58.1-611.1~~. Such tax shall be added to the rate of the state use tax imposed pursuant to §§ 58.1-604 and  
426 58.1-604.01 in each such county and city and shall be subject to all the provisions of this chapter and the  
427 rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the  
428 tax imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the  
429 same manner and subject to the same penalties as provided for the state use tax under § 58.1-604.

430 D. The revenue generated and collected pursuant to the tax authorized under this section, less the  
431 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller as follows:

432 1. Fifty percent of the revenues shall be deposited into the Historic Triangle Marketing Fund created  
433 pursuant to subsection F and used for the purposes set forth therein; and

434 2. Fifty percent of the revenues shall be deposited into a special fund hereby created on the books of the  
435 Comptroller under the name "Collections of Historic Triangle Sales Tax" and distributed to the locality in  
436 which the sales or use tax was collected. The revenues received by a locality pursuant to this subsection shall  
437 not be used to reduce the funding dedicated by the recipient localities to regional tourism promotion and  
438 product development.

439 E. 1. The revenues received by a locality pursuant to subsection D shall not be used to reduce such  
440 locality's funding dedicated to regional tourism promotion and product development. In meeting the  
441 requirements of this subsection, each locality shall annually allocate the following minimum amounts, to be  
442 distributed as provided in subdivision 2:

443 a. The City of Williamsburg shall allocate at least \$800,000;

444 b. James City County shall allocate at least \$740,000; and

445 c. York County shall allocate at least \$438,600.

446 2. As determined by agreement among the City of Williamsburg and the Counties of James City and  
447 York, the amounts allocated under subdivision 1 shall be appropriated so that each of the recipients identified  
448 in this subdivision receive the following minimum amounts:

449 a. The Williamsburg Tourism Council shall receive at least \$126,600;

450 b. The Greater Williamsburg Chamber of Commerce shall receive at least \$402,000; and

451 c. The Historic Triangle Recreational Facilities Authority shall receive at least \$1,450,000.

452 F. 1. There is hereby created in the state treasury a special nonreverting fund to be known as the Historic  
453 Triangle Marketing Fund, referred to in this section as "the Fund," to be managed and administered by the  
454 Williamsburg Tourism Council. The Fund shall be established on the books of the Comptroller. All revenues  
455 generated pursuant to this section shall be paid into the state treasury and credited to the Fund. Interest earned  
456 on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund,  
457 including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in  
458 the Fund. Moneys in the Fund shall be used solely for the purposes of marketing, advertising, and promoting  
459 the Historic Triangle area as an overnight tourism destination, with the intent to attract visitors from a  
460 sufficient distance so as to require an overnight stay of at least one night, as set forth in this subsection.  
461 Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by  
462 the Comptroller upon written request signed by the Secretary of Finance.

463 2. The Williamsburg Tourism Council (the Council) is established as an advisory board in the legislative  
464 branch of state government. The Council shall consist of members as follows: one member of the James City  
465 County Board of Supervisors, one member of the York County Board of Supervisors; one member of the  
466 Williamsburg City Council, one representative of the Colonial Williamsburg Foundation, one representative  
467 of the Jamestown-Yorktown Foundation, one representative of Busch Gardens Williamsburg, one  
468 representative of the Jamestown Rediscovery Foundation, one representative of the Williamsburg Hotel and  
469 Motel Association, and one representative of the Williamsburg Area Restaurant Association. The Chair of the  
470 Greater Williamsburg Chamber of Commerce and the Chief Executive Officer of the Virginia Tourism  
471 Corporation shall serve as ex officio, nonvoting members of the Council.

472 3. The Council shall establish the Historic Triangle Office of Marketing and Promotion (the Office) to  
473 administer a program of marketing, advertising, and promotion to attract visitors to the Historic Triangle area,  
474 as required by this subsection. The Council shall use moneys in the Fund to fund the pay for necessary  
475 expenses of the Office and to fund the activities of the Office. The Office shall be overseen by a professional  
476 with extensive experience in marketing or advertising and in the tourism industry. The Office shall be  
477 responsible for (i) developing and implementing, in consultation with the Council, long-term and short-term  
478 strategic plans for advertising and promoting the numerous facilities, venues, and attractions devoted to  
479 education, historic preservation, amusement, entertainment, and dining in the Historic Triangle as a cohesive  
480 and unified travel destination for local, national, and international travelers; (ii) assisting, upon request, with  
481 the coordination of cross-advertising and cross-marketing efforts between various tourism venues and  
482 destinations in the Historic Triangle region; (iii) identifying strategies for both increasing the number of  
483 overnight visitors to the region and increasing the average length of stay of tourists in the region; and (iv)  
484 performing any other function related to the promotion of the Historic Triangle region as may be identified by  
485 the Council.

486 4. The Council shall report annually on its long-term and short-term strategic plans and the



487 implementation of such plans; marketing efforts; metrics regarding tourism in the Historic Triangle region;  
488 use of the funds in the Fund; and any other details relevant to the work of the Council and the Office. Such  
489 report shall be delivered no later than December 1 of each year to the managers or chief executive officers of  
490 the City of Williamsburg and the Counties of James City and York, and to the Chairmen of the House  
491 Committees on Finance and Appropriations and the Senate Committee on Finance and Appropriations.

492 **§ 58.1-604.01. (For contingent expiration dates, see Acts 2013, c. 766, and Acts 2020, c. 1235)**  
493 **Additional state use tax in certain counties and cities.**

494 A. In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in each  
495 county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title  
496 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more, as shown by the most recent  
497 United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit  
498 ridership of not less than 15 million riders per year across all transit systems within the Planning District or  
499 (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and  
500 also meets the vehicle registration and ridership criteria set forth in clause (i), a retail use tax at the rate of  
501 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective  
502 beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.

503 B. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in each  
504 county and city located in Planning District 15 established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of  
505 Title 15.2 a retail use tax at the rate of 0.70 percent. In no case shall an additional use tax be imposed  
506 pursuant to both clause (ii) of subsection A and this subsection.

507 C. The tax imposed pursuant to subsections A and B ~~shall not be levied upon food purchased for human~~  
508 ~~consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1.~~ Such tax  
509 shall be added to the rate of the state use tax imposed pursuant to § 58.1-604 in such county and city and shall  
510 be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No  
511 discount under § 58.1-622 shall be allowed for the tax described under this section. Such tax shall be  
512 administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as  
513 provided for the state use tax under § 58.1-604.

514 D. The revenue generated and collected pursuant to the tax authorized under this section, less the  
515 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds  
516 established by law. In the case of Planning District 8, the revenue generated and collected therein shall be  
517 deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue generated  
518 and collected therein shall be deposited into the fund established in § 33.2-2600. In the case of Planning  
519 District 15, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-  
520 3701. For any additional planning districts that may become subject to this section, funds shall be established  
521 by appropriate legislation.

522 **§ 58.1-604.01. (For contingent effective date, see Acts 2020, c. 1235; for contingent expiration date,**  
523 **see Acts 2013, c. 766) Additional state use tax in certain counties and cities.**

524 In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in each  
525 county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title  
526 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more, as shown by the most recent  
527 United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit  
528 ridership of not less than 15 million riders per year across all transit systems within the Planning District or  
529 (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and  
530 also meets the vehicle registration and ridership criteria set forth in clause (i), a retail use tax at the rate of  
531 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective  
532 beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.  
533 ~~Such tax shall not be levied upon food purchased for human consumption and essential personal hygiene~~  
534 ~~products, as such terms are defined in § 58.1-611.1.~~ Such tax shall be added to the rate of the state use tax  
535 imposed pursuant to § 58.1-604 in such county and city and shall be subject to all the provisions of this  
536 chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be  
537 allowed for the tax described under this section. Such tax shall be administered and collected by the Tax  
538 Commissioner in the same manner and subject to the same penalties as provided for the state use tax under §  
539 58.1-604.

540 The revenue generated and collected pursuant to the tax authorized under this section, less the applicable  
541 portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds established by  
542 law. In the case of Planning District 8, the revenue generated and collected therein shall be deposited into the  
543 fund established in § 33.2-2509. In the case of Planning District 23, the revenue generated and collected  
544 therein shall be deposited into the fund established in § 33.2-2600. For any additional Planning Districts that  
545 may become subject to this section, funds shall be established by appropriate legislation.

546 **§ 58.1-605.1. Additional local sales tax in certain localities; use of revenues for construction or**  
547 **renovation of schools.**

548 A. 1. In addition to the sales tax authorized under § 58.1-605, a qualifying locality may levy a general

549 retail sales tax at a rate not to exceed one percent as determined by its governing body to provide revenue  
550 solely for capital projects for the construction or renovation of schools in each such locality. Such tax shall be  
551 added to the rates of the state and local sales tax imposed by this chapter and shall be subject to all the  
552 provisions of this chapter and the rules and regulations published with respect thereto. No discount under §  
553 58.1-622 shall be allowed on this local sales tax.

554 2. Any tax imposed pursuant to this section shall expire (i) if the capital projects for the construction or  
555 renovation of schools are to be financed by bonds or loans, on the date by which such bonds or loans shall be  
556 repaid or (ii) if the capital projects for the construction or renovation of schools are not to be financed by  
557 bonds or loans, on a date chosen by the governing body and specified in any resolution passed pursuant to the  
558 provisions of subdivision B 1. Such expiration date shall not be more than 20 years after the date of the  
559 resolution passed pursuant to the provisions of subdivision B 1.

560 B. 1. This tax may be levied only if the tax is approved in a referendum within the qualifying locality held  
561 in accordance with § 24.2-684 and initiated by a resolution of the local governing body. Such resolution shall  
562 state (i) if the capital projects for the construction or renovation of schools are to be financed by bonds or  
563 loans, the date by which such bonds or loans shall be repaid or (ii) if the capital projects for the construction  
564 or renovation of schools are not to be financed by bonds or loans, a specified date on which the sales tax shall  
565 expire.

566 2. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general  
567 circulation in the qualifying locality once a week for three consecutive weeks prior to the election. The  
568 question on the ballot for the referendum shall include language stating (i) that the revenues from the sales  
569 tax shall be used solely for capital projects for the construction or renovation of schools and (ii) the date on  
570 which the sales tax shall expire.

571 C. The governing body of the qualifying locality, if it elects to impose a local sales tax under this section  
572 after approval at a referendum as provided in subsection B shall do so by the adoption of an ordinance stating  
573 its purpose and referring to this section and providing that such ordinance shall be effective on the first day of  
574 a month at least 120 days after its adoption. Such ordinance shall state the date on which the sales tax shall  
575 expire. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be  
576 received within five days after its adoption.

577 D. Any local sales tax levied under this section shall be administered and collected by the Tax  
578 Commissioner in the same manner and subject to the same exemptions and penalties as provided for the state  
579 sales tax; ~~however, the local sales tax levied under this section shall not be levied on food purchased for~~  
580 ~~human consumption or essential personal hygiene products, as such terms are defined in § 58.1-611.1.~~

581 E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid into the  
582 state treasury to the credit of a special fund that is hereby created on the Comptroller's books for each  
583 qualifying locality under the name "Collections of Additional Local Sales Taxes in \_\_\_\_ (INSERT NAME  
584 OF THE QUALIFYING LOCALITY)." Each fund shall be administered as provided in § 58.1-605. A  
585 separate fund shall be created for each qualifying locality. Only local sales tax moneys collected in that  
586 qualifying locality shall be deposited in that locality's fund.

587 F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in any  
588 month for the preceding month, the Comptroller shall draw his warrant on the State Treasurer in the proper  
589 amount in favor of each qualifying locality, and such payments shall be charged to the account of the  
590 qualifying locality under its special fund created by this section. If errors are made in any such payment, or  
591 adjustments are otherwise necessary, whether attributable to refunds to taxpayers or to some other fact, the  
592 errors shall be corrected and adjustments made in the payments for the next two months as follows: one-half  
593 of the total adjustment shall be included in the payment for each of the next two months. In addition, the  
594 payment shall include a refund of amounts erroneously not paid to each qualifying locality and not previously  
595 refunded during the three years preceding the discovery of the error. A correction and adjustment in payments  
596 described in this subsection due to the misallocation of funds by the dealer shall be made within three years  
597 of the date of the payment error.

598 G. The revenues from this tax shall be used solely for capital projects for new construction or major  
599 renovation of schools in the qualifying locality, including bond and loan financing costs related to such  
600 construction or renovation.

601 **§ 58.1-606.1. Additional local use tax in certain localities; use of revenues for construction or**  
602 **renovation of schools.**

603 A. 1. The governing body of a qualifying locality may levy a use tax at the rate of such sales tax under §  
604 58.1-605.1 to provide revenue for capital projects for the construction or renovation of schools in such  
605 locality. Such tax shall be added to the rates of the state and local use tax imposed by this chapter and shall be  
606 subject to all the provisions of this chapter, and all amendments thereof, and the rules and regulations  
607 published with respect thereto, except that no discount under § 58.1-622 shall be allowed on a local use tax.

608 2. Any tax imposed pursuant to this section shall expire (i) if the capital projects for the construction or  
609 renovation of schools are to be financed by bonds or loans, on the date by which such bonds or loans shall be

610 repaid or (ii) if the capital projects for the construction or renovation of schools are not to be financed by  
 611 bonds or loans, on a date chosen by the governing body and specified in any resolution passed pursuant to the  
 612 provisions of subsection B. Such expiration date shall not be more than 20 years after the date of the  
 613 resolution passed pursuant to the provisions of subsection B.

614 B. The governing body of the qualifying locality, if it elects to impose a local use tax under this section  
 615 may do so only if it has previously imposed the local sales tax authorized by § 58.1-605.1, by the adoption of  
 616 an ordinance stating its purpose and referring to this section and providing that the local use tax shall become  
 617 effective on the first day of a month at least 120 days after its adoption. Such ordinance shall state the date on  
 618 which the use tax shall expire. A certified copy of such ordinance shall be forwarded to the Tax  
 619 Commissioner so that it will be received within five days after its adoption.

620 C. Any local use tax levied under this section shall be administered and collected by the Tax  
 621 Commissioner in the same manner and subject to the same exemptions and penalties as provided for the state  
 622 use tax; ~~however, the local use tax levied under this section shall not be levied on food purchased for human~~  
 623 ~~consumption or essential personal hygiene products, as such terms are defined in § 58.1-611.1.~~

624 D. The local use tax authorized by this section shall not apply to transactions to which the sales tax  
 625 applies, the situs of which for state and local sales tax purposes is the locality of location of each place of  
 626 business of every dealer paying the tax to the Commonwealth without regard to the locality of possible use by  
 627 the purchasers. However, the local use tax authorized by this section shall apply to tangible personal property  
 628 purchased outside the Commonwealth for use or consumption within the locality imposing the local use tax,  
 629 or stored within the locality for use or consumption, where the property would have been subject to the sales  
 630 tax if it had been purchased within the Commonwealth. The local use tax shall also apply to leases or rentals  
 631 of tangible personal property where the place of business of the lessor is outside the Commonwealth and such  
 632 leases or rentals are subject to the state tax. Moreover, the local use tax shall apply in all cases in which the  
 633 state use tax applies.

634 E. Out-of-state dealers who hold certificates of registration to collect the use tax from their customers for  
 635 remittance to the Commonwealth shall, to the extent reasonably practicable, in filing their monthly use tax  
 636 returns with the Tax Commissioner, break down their shipments into the Commonwealth by counties and  
 637 cities so as to show the county or city of destination. If, however, the out-of-state dealer is unable accurately  
 638 to assign any shipment to a particular county or city, the local use tax on the tangible personal property  
 639 involved shall be remitted to the Commonwealth by such dealer without attempting to assign the shipment to  
 640 any county or city.

641 F. Local use tax revenue shall be deposited in the special fund established pursuant to subsection E of §  
 642 58.1-605.1. The Comptroller shall distribute the revenue to the qualifying locality.

643 G. All revenue from this local use tax revenue shall be used solely for capital projects for new  
 644 construction or major renovation of schools in the qualifying locality, including bond and loan financing  
 645 costs related to such construction or renovation.

646 **§ 58.1-609.5. Service exemptions.**

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

649 1. ~~Professional, insurance, or personal service transactions which involve sales as inconsequential~~  
 650 ~~elements for which no separate charges are made; services rendered by repairmen for which a separate charge~~  
 651 ~~is made; and services not involving an exchange of tangible personal property which provide access to or use~~  
 652 ~~of the Internet and any other related electronic communication service, including software, data, content and~~  
 653 ~~other information services delivered electronically via the Internet.~~

654 2. ~~An amount separately charged for labor or services rendered in installing, applying, remodeling, or~~  
 655 ~~repairing property sold or rented Health care services. For purposes of this section, "health care services"~~  
 656 ~~means services that must be provided by or under the direction of persons who must be licensed or certified~~  
 657 ~~by a board within the Department of Health Professions pursuant to Subtitle III (§ 54.1-2400 et seq.) of Title~~  
 658 ~~54.1.~~

659 2. *Professional services, including education or training, legal, financial, accounting and tax preparation,*  
 660 *real estate, engineering, architectural, or insurance services.*

661 3. *Services performed by a person who does not receive more than \$2,500 per year in gross receipts for*  
 662 *performance of such services.*

663 4. *Services that provide Internet access service as that term is defined in § 58.1-647.*

664 5. Transportation charges separately stated.

665 4. ~~Separately stated charges for alterations to apparel, clothing and garments.~~

666 5-6. Charges for gift wrapping services performed by a nonprofit organization.

667 6. ~~An amount separately charged for labor or services rendered in connection with the modification of~~  
 668 ~~prewritten programs as defined in § 58.1-602.~~

669 7. ~~Custom programs as defined in § 58.1-602.~~

670 8. ~~An amount separately charged for labor rendered in connection with diagnostic work for automotive~~

671 repair and emergency roadside service for motor vehicles, as defined by § 46.2-100, regardless of whether  
 672 there is a sale of a repair or replacement part or a shop supply charge.

673 9. 7. The sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for  
 674 more than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or  
 675 any other place in which rooms, lodging, space or accommodations are regularly furnished to transients for a  
 676 consideration.

677 ~~10. Beginning January 1, 1996, maintenance contracts, the terms of which provide for both repair or~~  
 678 ~~replacement parts and repair labor, shall be subject to tax upon one-half of the total charge for such contracts~~  
 679 ~~only. Persons providing maintenance pursuant to such a contract may purchase repair or replacement parts~~  
 680 ~~under a resale certificate of exemption. Warranty plans issued by an insurance company, which constitute~~  
 681 ~~insurance transactions, are subject to the provisions of subdivision 1 above.~~

682 8. Residential cleaning, home repair or maintenance, or landscaping services that are purchased by a  
 683 homeowners' association or similar entity or by a landlord for the benefit of his tenant.

684 **§ 58.1-609.11. Exemptions for nonprofit entities.**

685 A. For purposes of this section, "nonprofit organization" or "nonprofit entity" means an entity that meets  
 686 the requirements of subsection D. "Nonprofit organization" or "nonprofit entity" includes a single member  
 687 limited liability company whose sole member is a nonprofit organization.

688 B. Any nonprofit organization that holds a valid certificate of exemption from the Department of  
 689 Taxation, or any nonprofit church that holds a valid self-executing certificate of exemption, that exempts it  
 690 from collecting or paying state and local retail sales or use taxes as of June 30, 2003, pursuant to § 58.1-609.4  
 691 , 58.1-609.7, 58.1-609.8, 58.1-609.9, or 58.1-609.10, as such sections are in effect on June 30, 2003, shall  
 692 remain exempt from the collection or payment of such taxes under the same terms and conditions as provided  
 693 under such sections as such sections existed on June 30, 2003, until: (i) July 1, 2007, for such entities that  
 694 were exempt under § 58.1-609.4; (ii) July 1, 2008, for such entities that were exempt under § 58.1-609.7; (iii)  
 695 July 1, 2004, for the first one-half of such entities that were exempt under § 58.1-609.8, except churches,  
 696 which will remain exempt under the same criteria and procedures in effect for churches on June 30, 2003; (iv)  
 697 July 1, 2005, for the second one-half of such entities that were exempt under § 58.1-609.8; and (v) July 1,  
 698 2006, for such entities that were exempt under § 58.1-609.9 or under § 58.1-609.10. At the end of the  
 699 applicable period of such exemptions, to maintain or renew an exemption for the period of time set forth in  
 700 subsection G, each entity must follow the procedures set forth in subsection C and meet the criteria set forth  
 701 in subsection D. Provided, however, that any entity that was exempt from collecting sales and use tax shall  
 702 continue to be exempt from such collection, and any entity that was exempt from paying sales and use tax for  
 703 the purchase of services, as of June 30, 2003, shall continue to be exempt from such payment, provided that it  
 704 follows the other procedures set forth in subsection C and meets the criteria set forth in subsection D.  
 705 Provided further, however, that an educational institution doing business in the Commonwealth which  
 706 provides a face-to-face educational experience in American government and was exempt pursuant to  
 707 subdivision 4 of § 58.1-609.4 from paying sales and use tax for the purchase of services, as of June 30, 2003,  
 708 shall continue to be exempt from such payment, provided that it follows the other procedures set forth in  
 709 subsection C and meets the criteria set forth in subsection D.

710 C. 1. On and after July 1, 2004, in addition to the organizations described in subsection B, and except as  
 711 restricted in subdivision 2, the tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605  
 712 and 58.1-606 shall not apply to purchases of *taxable services or* tangible personal property for use or  
 713 consumption by any nonprofit entity that, pursuant to this section, (i) files an appropriate application with the  
 714 Department of Taxation, (ii) meets the applicable criteria, and (iii) is issued a certificate of exemption from  
 715 the Department of Taxation for the period of time covered by the certificate.

716 2. If the entity that is exempt under this section is exempt from federal income tax under § 501(c)(19) of  
 717 the Internal Revenue Code, or has annual gross receipts of less than \$5,000 and is organized for at least one  
 718 of the purposes set forth in § 501(c)(19) of the Internal Revenue Code, then the exemption under this section  
 719 for such entity shall not apply to purchases of *taxable services or* tangible personal property that are used  
 720 primarily (i) for social and recreational activities for members or (ii) for providing insurance benefits to  
 721 members or members' dependents.

722 D. To qualify for the exemption under subsection C, a nonprofit entity must meet the applicable criteria  
 723 under this subsection as follows:

724 1. a. The entity is exempt from federal income taxation (i) under § 501(c)(3) of the Internal Revenue  
 725 Code; (ii) under § 501(c)(4) of the Internal Revenue Code and is organized for a charitable purpose; or (iii)  
 726 under § 501(c)(19) of the Internal Revenue Code; or

727 b. The entity has annual gross receipts of less than \$5,000, and the entity is organized for at least one of  
 728 the purposes set forth in § 501(c)(3) of the Internal Revenue Code, one of the charitable purposes set forth in  
 729 § 501(c)(4) of the Internal Revenue Code, or one of the purposes set forth in § 501(c)(19) of the Internal  
 730 Revenue Code; and

731 2. The entity is in compliance with all applicable state solicitation laws and, where applicable, provides

732 appropriate verification of such compliance; and

733 3. The entity's annual general administrative costs, including salaries and fundraising, relative to its annual  
734 gross revenue, under generally accepted accounting principles, is not greater than 40 percent; and

735 4. If the entity's gross annual revenue was at least \$750,000 in the previous year, then the entity must  
736 provide a financial review performed by an independent certified public accountant. However, for any entity  
737 with gross annual revenue of at least \$1 million in the previous year, the Department may require that the  
738 entity provide a financial audit performed by an independent certified public accountant. If the Department  
739 specifically requires an entity with gross annual revenue of at least \$1 million in the previous year to provide  
740 a financial audit performed by an independent certified public accountant, then the entity shall provide such  
741 audit in order to qualify for the exemption under this section, which audit shall be in lieu of the financial  
742 review; and

743 5. If the entity filed a federal 990 or 990 EZ tax form, or the successor forms to such forms, with the  
744 Internal Revenue Service, then it must provide a copy of such form to the Department of Taxation; and

745 6. If the entity did not file a federal 990 or 990 EZ tax form, or the successor forms to such forms, with the  
746 Internal Revenue Service, then the entity must provide the following information:

747 a. A list of the Board of Directors or other responsible agents of the entity, composed of at least two  
748 individuals, with names and addresses where the individuals physically can be found; and

749 b. The location where the financial records of the entity are available for public inspection.

750 E. On and after July 1, 2004, in addition to the criteria set forth in subsection D, the Department of  
751 Taxation shall ask each entity for the total taxable purchases made in the preceding year, unless such records  
752 are not available through no fault of the entity. If the records are not available through no fault of the entity,  
753 then the entity must provide such information to the Department the following year. No information provided  
754 pursuant to this subsection (except the failure to provide available information) shall be a basis for the  
755 Department of Taxation to refuse to exempt an entity.

756 F. Any entity that is determined under subsections C, D, and E by the Department of Taxation to be  
757 exempt from paying sales and use tax shall also be exempt from collecting sales and use tax, at its election, if  
758 (i) the entity is within the same class of organization of any entity that was exempt from collecting sales and  
759 use tax on June 30, 2003, or (ii) the entity is organized exclusively to foster, sponsor, and promote physical  
760 education, athletic programs, and contests for youths in the Commonwealth.

761 G. The duration of each exemption granted by the Department of Taxation shall be no less than five years  
762 and no greater than seven years. During the period of such exemption, the failure of an exempt entity to  
763 maintain compliance with the applicable criteria set forth in subsection D shall constitute grounds for  
764 revocation of the exemption by the Department. At the end of the period of such exemption, to maintain or  
765 renew the exemption, each entity must provide the Department of Taxation the same information as required  
766 upon initial exemption and meet the same criteria.

767 H. For purposes of this section, the Department of Taxation and the Department of Agriculture and  
768 Consumer Services shall be allowed to share information when necessary to supplement the information  
769 required.

770 **§ 58.1-611.1. Exemption for food purchased for human consumption and essential personal hygiene**  
771 **products.**

772 A. Before January 1, 2023, the tax imposed by §§ 58.1-603 and 58.1-604 on food purchased for human  
773 consumption and essential personal hygiene products shall be one and one-half percent of the gross sales  
774 price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-  
775 half percent shall be distributed as provided in subsection A of § 58.1-638 and (ii) the revenue from the tax at  
776 the rate of one percent shall be distributed as provided in subsections B, C, and D of § 58.1-638.

777 B. 1. On and after January 1, 2023, *but before July 1, 2024*, and except for taxes imposed pursuant to §§  
778 58.1-605 and 58.1-606, no tax shall be imposed under this chapter, or pursuant to any authority granted under  
779 this chapter, on food purchased for human consumption or essential personal hygiene products.

780 2. *On and after July 1, 2024, no tax shall be imposed under this chapter, or pursuant to any authority*  
781 *granted under this chapter, on food purchased for human consumption or essential personal hygiene*  
782 *products.*

783 C. Beginning February 1, 2023, an amount equal to the revenue that would have been distributed pursuant  
784 to clause (ii) of subsection A shall be distributed as provided in subsections B, C, and D of § 58.1-638 based  
785 on the estimates of the population of cities and counties ages five to 19.

786 D. 1. As used in this section, "food purchased for human consumption" has the same meaning as "food"  
787 defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted  
788 pursuant to that Act, except it shall not include seeds and plants which produce food for human consumption.  
789 For the purpose of this section, "food purchased for human consumption" shall not include food sold by any  
790 retail establishment where the gross receipts derived from the sale of food prepared by such retail  
791 establishment for immediate consumption on or off the premises of the retail establishment constitutes more  
792 than 80 percent of the total gross receipts of that retail establishment, including but not limited to motor fuel

793 purchases, regardless of whether such prepared food is consumed on the premises of that retail establishment.  
794 For purposes of this section, "retail establishment" means each place of business for which any "dealer," as  
795 defined in § 58.1-612, is required to apply for and receive a certificate of registration pursuant to § 58.1-613.

796 2. As used in this section, "essential personal hygiene products" means (i) nondurable incontinence  
797 products such as diapers, disposable undergarments, pads, and bed sheets and (ii) menstrual cups and pads,  
798 pantyliners, sanitary napkins, tampons, and other products used to absorb or contain menstrual flow.  
799 "Essential personal hygiene products" does not include any item that is otherwise exempt pursuant to this  
800 chapter.

801 **§ 58.1-612. Tax collectible from dealers; "dealer" defined; jurisdiction.**

802 A. The tax levied by §§ 58.1-603 and 58.1-604 shall be collectible from all persons that are dealers, as  
803 defined in this section, and that have sufficient contact with the Commonwealth to qualify under (i)  
804 subsections B and C or (ii) subsections B and D.

805 B. As used in this chapter, "dealer" includes every person that:

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

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

811 3. Sells at retail, or that offers for sale at retail, or that has in its possession for sale at retail, or for use,  
812 consumption, or distribution, or for storage to be used or consumed in this Commonwealth, *taxable services*  
813 *or* tangible personal property;

814 4. Has sold at retail, used, consumed, distributed, *furnished*, or stored for use or consumption in this  
815 Commonwealth, *taxable services or* tangible personal property and that cannot prove that the tax levied by  
816 this chapter has been paid on the sale at retail, the use, consumption, distribution, or storage of such *taxable*  
817 *services or* tangible personal property;

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

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

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

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

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

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

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

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

836 4. Makes regular deliveries of tangible personal property within this Commonwealth by means other than  
837 common carrier. A person shall be deemed to be making regular deliveries hereunder if vehicles other than  
838 those operated by a common carrier enter this Commonwealth more than 12 times during a calendar year to  
839 deliver goods sold by him;

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

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

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

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

851 9. Owns tangible personal property that is for sale located in this Commonwealth, or that is rented or  
852 leased to a consumer in this Commonwealth, or offers tangible personal property, on approval, to consumers  
853 in this Commonwealth;

854 10. Receives more than \$100,000 in gross revenue, or other minimum amount as may be required by

855 federal law, from retail sales in the Commonwealth in the previous or current calendar year, provided that in  
 856 determining the amount of a dealer's gross revenues, the sales made by all commonly controlled persons as  
 857 defined in subsection D shall be aggregated; or

858 11. Engages in 200 or more separate retail sales transactions, or other minimum amount as may be  
 859 required by federal law, in the Commonwealth in the previous or current calendar year, provided that in  
 860 determining the total number of a dealer's retail sales transactions, the sales made by all commonly controlled  
 861 persons as defined in subsection D shall be aggregated.

862 D. A dealer is presumed to have sufficient activity within the Commonwealth to require registration under  
 863 § 58.1-613 (unless the presumption is rebutted as provided herein) if any commonly controlled person  
 864 maintains a distribution center, warehouse, fulfillment center, office, or similar location within the  
 865 Commonwealth that facilitates the delivery of tangible personal property sold by the dealer to its customers.  
 866 The presumption in this subsection may be rebutted by demonstrating that the activities conducted by the  
 867 commonly controlled person in the Commonwealth are not significantly associated with the dealer's ability to  
 868 establish or maintain a market in the Commonwealth for the dealer's sales. For purposes of this subsection, a  
 869 "commonly controlled person" means any person that is a member of the same "controlled group of  
 870 corporations," as defined in § 1563(a) of the Internal Revenue Code of 1954, as amended or renumbered, as  
 871 the dealer or any other entity that, notwithstanding its form of organization, bears the same ownership  
 872 relationship to the dealer as a corporation that is a member of the same "controlled group of corporations," as  
 873 defined in § 1563(a) of the Internal Revenue Code of 1954, as amended or renumbered.

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

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

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

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

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

887 F. In addition to the jurisdictional standards contained in subsections C and D, nothing contained in this  
 888 chapter other than in subsection E shall limit any authority that this Commonwealth may enjoy under the  
 889 provisions of federal law or an opinion of the United States Supreme Court to require the collection of sales  
 890 and use taxes by any dealer that regularly or systematically solicits sales within this Commonwealth.  
 891 Furthermore, nothing contained in subsection C shall require any broadcaster, printer, outdoor advertising  
 892 firm, advertising distributor, or publisher which broadcasts, publishes, or displays or distributes paid  
 893 commercial advertising in this Commonwealth which is intended to be disseminated primarily to consumers  
 894 located in this Commonwealth to report or impose any liability to pay any tax imposed under this chapter  
 895 solely because such broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher  
 896 accepted such advertising contracts from out-of-state advertisers or sellers.

897 **§ 58.1-623. Sales or leases presumed subject to tax; exemption certificates.**

898 A. All sales or leases are subject to the tax until the contrary is established. The burden of proving that a  
 899 sale, or distribution, of taxable services or tangible personal property or the lease, or storage of tangible  
 900 personal property is not taxable is upon the dealer unless he takes from the taxpayer a certificate to the effect  
 901 that the property is exempt under this chapter. However, the sale or distribution of cigarettes shall be subject  
 902 to the provisions of § 58.1-623.2 and require a cigarette exemption certificate issued pursuant to § 58.1-623.2.

903 B. The certificate mentioned in this section shall relieve the person who takes such certificate from any  
 904 liability for the payment or collection of the tax, except upon notice from the Tax Commissioner that such  
 905 certificate is no longer acceptable. Such certificate shall be signed by and bear the name and address of the  
 906 taxpayer; shall indicate the number of the certificate of registration, if any, issued to the taxpayer; shall  
 907 indicate the general character of the taxable service or tangible personal property sold, distributed, leased, or  
 908 stored, or to be sold, distributed, leased, or stored under a blanket exemption certificate; and shall be  
 909 substantially in such form as the Tax Commissioner may prescribe. If an exemption pertains to a nonprofit  
 910 organization, other than a nonprofit church, that has qualified for a sales and use tax exemption under § 58.1-  
 911 609.11, the exemption certificate shall be valid until the scheduled expiration date stated on the exemption  
 912 certificate.

913 C. If a taxpayer who gives a certificate under this section makes any use of the taxable service or tangible  
 914 personal property other than an exempt use or retention, demonstration, or display while holding the property  
 915 for resale, distribution, or lease in the regular course of business, such use shall be deemed a taxable sale by

916 the taxpayer as of the time the property or service is first used by him, and the cost of the property *or service*  
917 to him shall be deemed the sales price of such retail sale. If the sole use of the property *or service* other than  
918 retention, demonstration, or display in the regular course of business is the rental of the property *or service*  
919 while holding it for sale, distribution, or lease, the taxpayer may elect to pay the tax on the amount of the  
920 rental charged, rather than the cost of the property *or service* to him.

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

927 E. If a taxpayer fails to give the dealer at the time of purchase an exemption certificate previously issued  
928 by the Department, no interest shall be paid on a subsequent refund claim for any period prior to the date the  
929 taxpayer makes a complete refund claim with the Department. This subsection shall not apply to transactions  
930 exempted under self-executing certificates of exemption not issued to a specific taxpayer by the Department.

931 **§ 58.1-638. Disposition of state sales and use tax revenue.**

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

934 The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted by the  
935 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided in this  
936 section, to the Commonwealth Transportation Fund established pursuant to § 33.2-1524. The Fund's share of  
937 such net revenue shall be computed as an estimate of the net revenue to be received into the state treasury  
938 each month, and such estimated payment shall be adjusted for the actual net revenue received in the  
939 preceding month. All payments shall be made to the Fund on the last day of each month.

940 B. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed among  
941 the counties and cities of the Commonwealth in the manner provided in subsections C and D.

942 C. The localities' share of the net revenue distributable under this section among the counties and cities  
943 shall be apportioned by the Comptroller and distributed among them by warrants of the Comptroller drawn  
944 on the Treasurer of Virginia as soon as practicable after the close of each month during which the net revenue  
945 was received into the state treasury. The distribution of the localities' share of such net revenue shall be  
946 computed with respect to the net revenue received into the state treasury during each month, and such  
947 distribution shall be made as soon as practicable after the close of each such month.

948 D. The net revenue so distributable among the counties and cities shall be apportioned and distributed  
949 upon the basis of the latest yearly estimate of the population of cities and counties ages five to 19, provided  
950 by the Weldon Cooper Center for Public Service of the University of Virginia. Such population estimate  
951 produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for  
952 persons who are domiciled in orphanages or charitable institutions or who are dependents living on any  
953 federal military or naval reservation or other federal property within the school division in which the  
954 institutions or federal military or naval reservation or other federal property is located. Such population  
955 estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall  
956 account for members of the military services who are under 20 years of age within the school division in  
957 which the parents or guardians of such persons legally reside. Such population estimate produced by the  
958 Weldon Cooper Center for Public Service of the University of Virginia shall account for individuals receiving  
959 services in state hospitals, state training centers, or mental health facilities, persons who are confined in state  
960 or federal correctional institutions, or persons who attend the Virginia School for the Deaf and the Blind  
961 within the school division in which the parents or guardians of such persons legally reside. Such population  
962 estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall  
963 account for persons who attend institutions of higher education within the school division in which the  
964 student's parents or guardians legally reside. To such estimate, the Department of Education shall add the  
965 population of students with disabilities, ages two through four and 20 through 21, as provided to the  
966 Department of Education by school divisions. The revenue so apportionable and distributable is hereby  
967 appropriated to the several counties and cities for maintenance, operation, capital outlays, debt and interest  
968 payments, or other expenses incurred in the operation of the public schools, which shall be considered as  
969 funds raised from local resources. In any county, however, wherein is situated any incorporated town  
970 constituting a school division, the county treasurer shall pay into the town treasury for maintenance,  
971 operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the  
972 public schools, the proper proportionate amount received by him in the ratio that the school population of  
973 such town bears to the school population of the entire county. If the school population of any city or of any  
974 town constituting a school division is increased by the annexation of territory since the last estimate of school  
975 population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of  
976 this section, be added to the school population of such city or town as shown by the last such estimate and a



977 proper reduction made in the school population of the county or counties from which the annexed territory  
978 was acquired.

979 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a two  
980 percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of hunting  
981 equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment, wildlife-watching  
982 equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the most recent U.S.  
983 Department of the Interior, Fish and Wildlife Service and U.S. Department of Commerce, Bureau of the  
984 Census National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, shall be paid into the  
985 Game Protection Fund established under § 29.1-101 and shall be used, in part, to defray the cost of law  
986 enforcement. Not later than 30 days after the close of each quarter, the Comptroller shall transfer to the Game  
987 Protection Fund the appropriate amount of collections to be dedicated to such Fund. At any time that the  
988 balance in the Capital Improvement Fund, established under § 29.1-101.01, is equal to or in excess of \$35  
989 million, any portion of sales and use tax revenues that would have been transferred to the Game Protection  
990 Fund, established under § 29.1-101, in excess of the net operating expenses of the Board, after deduction of  
991 other amounts which accrue to the Board and are set aside for the Game Protection Fund, shall remain in the  
992 general fund until such time as the balance in the Capital Improvement Fund is less than \$35 million.

993 F. 1. Of the net revenue generated from the one-half percent increase in the rate of the state sales and use  
994 tax effective August 1, 2004, pursuant to enactments of the 2004 Special Session I of the General Assembly,  
995 the Comptroller shall transfer from the general fund of the state treasury to the Public Education Standards of  
996 Quality/Local Real Estate Property Tax Relief Fund established under § 58.1-638.1 an amount equivalent to  
997 one-half of the net revenue generated from such one-half percent increase as provided in this subdivision. The  
998 transfers to the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund under this  
999 subdivision shall be for one-half of the net revenue generated (and collected in the succeeding month) from  
1000 such one-half percent increase for the month of August 2004 and for each month thereafter.

1001 2. Beginning July 1, 2013, of the remaining sales and use tax revenue, an amount equal to the revenue  
1002 generated by a 0.125 percent sales and use tax shall be distributed to the Public Education Standards of  
1003 Quality/Local Real Estate Property Tax Relief Fund established under § 58.1-638.1, and be used for the  
1004 state's share of Standards of Quality basic aid payments.

1005 3. For the purposes of the Comptroller making the required transfers under subdivision 1 and 2, the Tax  
1006 Commissioner shall make a written certification to the Comptroller no later than the twenty-fifth of each  
1007 month certifying the sales and use tax revenues generated in the preceding month. Within three calendar days  
1008 of receiving such certification, the Comptroller shall make the required transfers to the Public Education  
1009 Standards of Quality/Local Real Estate Property Tax Relief Fund.

1010 G. (Contingent expiration date) Beginning July 1, 2020, of the remaining sales and use tax revenue, an  
1011 amount equal to 20 percent of the revenue generated by a one-half percent sales and use tax, such as that paid  
1012 to the Commonwealth Transportation Fund as provided in subsection A, shall be paid to the Commonwealth  
1013 Transportation Fund established pursuant to § 33.2-1524.

1014 The Commonwealth Transportation Fund's share of the net revenue distributable under this subsection  
1015 shall be computed as an estimate of the net revenue to be received into the state treasury each month, and  
1016 such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All  
1017 payments shall be made to the Fund on the last day of each month.

1018 H. (Contingent expiration date)

1019 1. The additional revenue generated by increases in the state sales and use tax from Planning District 8  
1020 pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall be deposited by the Comptroller in the  
1021 fund established under § 33.2-2509.

1022 2. The additional revenue generated by increases in the state sales and use tax from Planning District 23  
1023 pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall be deposited by the Comptroller in the  
1024 fund established under § 33.2-2600.

1025 3. (For contingent expiration date, see Acts 2020, c. 1235) The additional revenue generated by increases  
1026 in the state sales and use tax from Planning District 15 pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1,  
1027 and 58.1-614 shall be deposited by the Comptroller in the fund established under § 33.2-3701.

1028 4. The additional revenue generated by increases in the state sales and use tax in any other Planning  
1029 District pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall be deposited into special  
1030 funds that shall be established by appropriate legislation.

1031 5. The net revenues distributable under this subsection shall be computed as an estimate of the net revenue  
1032 to be received by the state treasury each month, and such estimated payment shall be adjusted for the actual  
1033 net revenue received in the preceding month. All payments shall be made to the appropriate funds on the last  
1034 day of each month.

1035 I. (For contingent expiration date, see Acts 2018, c. 850) The additional revenue generated by increases in  
1036 the state sales and use tax from the Historic Triangle pursuant to § 58.1-603.2 shall be deposited by the  
1037 Comptroller as follows: (i) 50 percent shall be deposited into the Historic Triangle Marketing Fund

1038 established pursuant to subsection F of § 58.1-603.2; and (ii) 50 percent shall be deposited in the special fund  
 1039 created pursuant to subdivision D 2 of § 58.1-603.2 and distributed to the localities in which the revenues  
 1040 were collected. The net revenues distributable under this subsection shall be computed as an estimate of the  
 1041 net revenues to be received by the state treasury each month, and such estimated payment shall be adjusted  
 1042 for the actual net revenue received in the preceding month. All payments shall be made to the appropriate  
 1043 funds on the last day of each month.

1044 J. *The revenues generated by the imposition of sales and use taxes on taxable services and digital*  
 1045 *personal property, as defined in § 58.1-602, pursuant to legislation enacted by the 2024 Regular Session of*  
 1046 *the General Assembly shall be allocated in the same manner prescribed for all other state sales and use tax*  
 1047 *revenue by subsections A through I of this section. However, revenues that are allocated to the general fund,*  
 1048 *and not specifically distributed as described in subsections A through I, shall be distributed to localities as*  
 1049 *follows: (i) 60 percent of such revenues shall be distributed to localities on the basis of school-age population*  
 1050 *as described in subsections C and D and (ii) 40 percent of such revenues shall be distributed to localities on*  
 1051 *the basis of high-need student population. Revenues distributed pursuant to clause (ii) shall be distributed in*  
 1052 *the same manner as provided in subsections C and D, mutatis mutandis. For purposes of this section, "high-*  
 1053 *need student population" means the number of students in a locality who are (a) identified students, as*  
 1054 *defined in 42 U.S.C. § 1759a or any successor provision; (b) participants in a program of special education*  
 1055 *established pursuant to Article 2 (§ 22.1-213 et seq.) of Chapter 13 of Title 22.1; or (c) English language*  
 1056 *learners.*

1057 K. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be  
 1058 corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

1059 ~~K.~~ L. The term "net revenue," as used in this section, means the gross revenue received into the general  
 1060 fund or the Commonwealth Transportation Fund of the state treasury under the preceding sections of this  
 1061 chapter, less refunds to taxpayers.

1062 **§ 58.1-647. Definitions.**

1063 Terms used in this chapter shall have the same meanings as those used in Chapter 6 of this title (§ 58.1-  
 1064 600 et seq.), unless defined otherwise, as follows:

1065 "Cable service" means the one-way transmission to subscribers of (i) video programming as defined in 47  
 1066 U.S.C. § 522 ~~(20)~~ 522(20) or (ii) other programming service, and subscriber interaction, if any, which is  
 1067 required for the selection of such video programming or other programming service. Cable service does not  
 1068 include any video programming provided by a commercial mobile service provider as defined in 47 U.S.C. §  
 1069 332 ~~(d)~~ 332(d) and any direct-to-home satellite service as defined in 47 U.S.C. § 303 ~~(v)~~ 303(v).

1070 "Call-by-call basis" means any method of charging for telecommunications services where the price is  
 1071 measured by individual calls.

1072 "Coin-operated communications service" means a communications service paid for by means of inserting  
 1073 coins in a coin-operated telephone.

1074 "Communications services" means the electronic transmission, conveyance, or routing of voice, data,  
 1075 audio, video, or any other information or signals, including cable services, *and any other service utilizing any*  
 1076 *communications infrastructure, including international calling services, extended call area services, and*  
 1077 *Internet application-based services, to a point or between or among points, by or through any electronic,*  
 1078 *radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised,*  
 1079 *regardless of the protocol used for the transmission or conveyance. The term "Communications services"*  
 1080 *includes, but is not limited to, (i) the connection, movement, change, or termination of communications*  
 1081 *services; (ii) detailed billing of communications services; (iii) sale of directory listings in connection with a*  
 1082 *communications service; (iv) central office and custom calling features; (v) voice mail and other messaging*  
 1083 *services; and (vi) directory assistance; (vii) prepaid calling services; and (viii) digital subscription services.*  
 1084 *With the exception of digital subscription services, "communications services" applies to any service*  
 1085 *described or listed in this definition, regardless of whether the customer is billed for such service on the basis*  
 1086 *of a subscription charge, a periodic charge, or a charge for actual usage, including such a fee for the use of*  
 1087 *an Internet-based application, excluding the original cost of purchasing the application.*

1088 "Communications services provider" means every person who provides communications services to  
 1089 customers in the Commonwealth and is or should be registered with the Department as a provider.

1090 "Cost price" means the actual cost of the purchased communications service computed in the same  
 1091 manner as the sales price.

1092 "Customer" means the person who contracts with the seller of communications services. If the person who  
 1093 utilizes the communications services is not the contracting party, the person who utilizes the services on his  
 1094 own behalf or on behalf of an entity is the customer of such service. "Customer" does not include a reseller of  
 1095 communications services or the mobile communications services of a serving carrier under an agreement to  
 1096 serve the customer outside the communications service provider's licensed service area.

1097 "Customer channel termination point" means the location where the customer either inputs or receives the  
 1098 private communications service.

1099 "Digital subscription service" means a service, including audio and visual streaming services, which for a

1100 *fee allows the user to access and use software, reading materials, or other digital data or applications for a*  
 1101 *defined period of time, and which products the user does not own or have permanent access to outside of*  
 1102 *such period of time.*

1103 "Information service" means the offering of a capability for generating, acquiring, storing, transforming,  
 1104 processing, retrieving, using, or making available information via communications services for purposes  
 1105 other than the electronic transmission, conveyance, or routing.

1106 "Internet access service" means a service that enables users to access content, information, electronic mail,  
 1107 or other services offered over the Internet, and may also include access to proprietary content, information,  
 1108 and other services as part of a package of services offered to users. "Internet access service" does not include  
 1109 telecommunications services, except to the extent telecommunications services are purchased, used, or sold  
 1110 by a provider of Internet access to provide Internet access.

1111 "Place of primary use" means the street address representative of where the customer's use of the  
 1112 communications services primarily occurs, which must be the residential street address or the primary  
 1113 business street address of the customer. In the case of mobile communications services, the place of primary  
 1114 use shall be within the licensed service area of the home service provider.

1115 "Postpaid calling service" means the communications service obtained by making a payment on a call-by-  
 1116 call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, debit  
 1117 card, or by a charge made to a telephone number that is not associated with the origination or termination of  
 1118 the communications service.

1119 "Prepaid calling service" means the right to access exclusively communications services, which must be  
 1120 paid for in advance and which enables the origination of calls using an access number or authorization code,  
 1121 whether manually or electronically dialed, ~~and that is sold in predetermined units or dollars that decrease in~~  
 1122 ~~number with use.~~

1123 "Private communications service" means a communications service that entitles the customer or user to  
 1124 exclusive or priority use of a communications channel or group of channels between or among channel  
 1125 termination points, regardless of the manner in which such channel or channels are connected, and includes  
 1126 switching capacity, extension lines, stations, and any other associated services that are provided in connection  
 1127 with the use of such channel or channels.

1128 "Retail sale" or a "sale at retail" means a sale of communications services for any purpose other than for  
 1129 resale or for use as a component part of or for the integration into communications services to be resold in the  
 1130 ordinary course of business.

1131 "Sales price" means the total amount charged in money or other consideration by a communications  
 1132 services provider for the sale of the right or privilege of using communications services in the  
 1133 Commonwealth, including any property or other services that are part of the sale. The sales price of  
 1134 communications services shall not be reduced by any separately identified components of the charge that  
 1135 constitute expenses of the communications services provider, including but not limited to, sales taxes on  
 1136 goods or services purchased by the communications services provider, property taxes, taxes measured by net  
 1137 income, and universal-service fund fees.

1138 "Service address" means, (i) the location of the telecommunications equipment to which a customer's call  
 1139 is charged and from which the call originates or terminates, regardless of where the call is billed or paid. If  
 1140 the location is not known in clause (i), "service address" means (ii) the origination point of the signal of the  
 1141 telecommunications system or in information received by the seller from its service provider, where the  
 1142 system used to transport such signals is not that of the seller. If the location is not known in clauses (i) and  
 1143 (ii), the service address means (iii) the location of the customer's place of primary use.

1144 "*Streaming service" means a method of transmitting or receiving video and audio data over a computer*  
 1145 *network as a steady, continuous flow, allowing playback to proceed while subsequent data is being received.*

1146 **§ 58.1-648. Imposition of sales tax; exemptions.**

1147 A. Beginning January 1, 2007, there is levied and imposed, in addition to all other taxes and fees of every  
 1148 kind imposed by law, a sales or use tax on the customers of communications services in the amount of ~~5%~~  
 1149 *five percent* of the sales price of each communications service that is sourced to the Commonwealth in  
 1150 accordance with § 58.1-649.

1151 B. The sales price on which the tax is levied shall not include charges for any of the following: (i) an  
 1152 excise, sales, or similar tax levied by the United States or any state or local government on the purchase, sale,  
 1153 use, or consumption of any communications service that is permitted or required to be added to the sales price  
 1154 of such service, if the tax is stated separately; (ii) a fee or assessment levied by the United States or any state  
 1155 or local government, including but not limited to, regulatory fees and emergency telephone surcharges, that is  
 1156 required to be added to the price of service if the fee or assessment is separately stated; (iii) coin-operated  
 1157 communications services; (iv) ~~sale or recharge of a prepaid calling service;~~ (v) provision of air-to-ground  
 1158 radiotelephone services, as that term is defined in 47 C.F.R. § 22.99; ~~(vi)~~ (v) a communications services  
 1159 provider's internal use of communications services in connection with its business of providing  
 1160 communications services; ~~(vii)~~ (vi) charges for property or other services that are not part of the sale of

1161 communications services, if the charges are stated separately from the charges for communications services;  
1162 ~~(viii)~~ (vii) sales for resale; ~~(ix)~~ (viii) charges for communications services to the Commonwealth, any political  
1163 subdivision of the Commonwealth, and the federal government and any agency or instrumentality of the  
1164 federal government; and ~~(x)~~ (ix) charges for communications services to any customers on any federal  
1165 military bases or installations when a franchise fee or similar fee for access is payable to the federal  
1166 government, or any agency or instrumentality thereof, with respect to the same communications services.

1167 C. Communications services on which the tax is hereby levied shall not include the following: (i)  
1168 information services; (ii) installation or maintenance of wiring or equipment on a customer's premises; (iii)  
1169 the sale or rental of tangible personal property; (iv) the sale of advertising, including but not limited to,  
1170 directory advertising; (v) bad check charges; (vi) billing and collection services; (vii) Internet access service,  
1171 electronic mail service, electronic bulletin board service, or similar services that are incidental to Internet  
1172 access, such as voice-capable ~~e-mail~~ *email* or instant messaging; (viii) digital products delivered  
1173 electronically *that are not digital subscription services, such as including* software, downloaded music, ~~ring~~  
1174 ~~tones~~ *ringtones*, and reading materials; and (ix) over-the-air radio and television service broadcast without  
1175 charge by an entity licensed for such purposes by the Federal Communications Commission. Also, those  
1176 entities exempt from the tax imposed in accordance with the provisions of Article 4 (§ 58.1-3812 et seq.) of  
1177 Chapter 38 of Title 58.1, in effect on January 1, 2006, shall continue to be exempt from the tax imposed in  
1178 accordance with the provisions of this chapter.