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HOUSE BILL NO. 1755

Offered January 13, 2025

Prefiled January 5, 2025

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 and digital personal property.

Patron—Watts

Referred to Committee on Finance

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 "*Digital services*" means the following services:

- 78 1. Software application services;
- 79 2. Computer-related services;
- 80 3. Website hosting and design;
- 81 4. Data storage; and
- 82 5. Digital subscription services.

83 "*Digital subscription service*" means a service, including audio and visual streaming services, that for a  
84 fee allows the user to access and use software, reading materials, or other digital data or applications for a  
85 defined period of time, and which products the user does not own or have permanent access to outside of  
86 such period of time.

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

89 "Distribution" means the transfer or delivery of a *taxable service* or tangible personal property for use,  
90 consumption, or storage by the distributee, and the use, consumption, or storage of a *taxable service* or  
91 tangible personal property by a person that has processed, manufactured, refined, or converted such *taxable*  
92 *service* or *tangible personal* property, but does not include the transfer or delivery of tangible personal  
93 property for resale or any use, consumption, or storage otherwise exempt under this chapter.

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

101 "Gross sales" means the sum total of all retail sales of tangible personal property or *taxable* services as  
102 defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" does not  
103 include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the Internal  
104 Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or the  
105 Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § 58.1-605 or  
106 58.1-606.

107 "Import" and "imported" are words applicable to *taxable services* or tangible personal property imported  
108 into the Commonwealth from other states as well as from foreign countries, and "export" and "exported" are  
109 words applicable to *taxable services* or tangible personal property exported from the Commonwealth to other  
110 states as well as to foreign countries.

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

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

120 mean general maintenance or administration.

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

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

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

129 "Manufacturing, processing, refining, or conversion" includes the production line of the plant starting with  
130 the handling and storage of raw materials at the plant site and continuing through the last step of production  
131 where the product is finished or completed for sale and conveyed to a warehouse at the production site, and  
132 also includes equipment and supplies used for production line testing and quality control. "Manufacturing"  
133 also includes the necessary ancillary activities of newspaper and magazine printing when such activities are  
134 performed by the publisher of any newspaper or magazine for sale daily or regularly at average intervals not  
135 exceeding three months.

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

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

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

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

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

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

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

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

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

180 "Qualifying locality" means Charlotte County, Gloucester County, Halifax County, Henry County,

181 Mecklenburg County, Northampton County, Patrick County, Pittsylvania County, or the City of Danville.

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

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

188 "Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in the  
189 form of a *taxable service or tangible personal property* ~~or services taxable under this chapter~~, and ~~shall~~  
190 ~~include~~ *includes* any such transaction as the Tax Commissioner upon investigation finds to be in lieu of a  
191 sale. All sales for resale must be made in strict compliance with regulations applicable to this chapter. Any  
192 dealer making a sale for resale ~~which~~ *that* is not in strict compliance with such regulations shall be personally  
193 liable for payment of the tax.

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

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

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

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

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

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

239 "Sales price" means the total amount for which *taxable services or tangible personal property* ~~or services~~  
240 ~~are~~ *is* sold, including any *taxable* services that are a part of the sale, valued in money, whether paid in money  
241 or otherwise, and includes any amount for which credit is given to the purchaser, consumer, or lessee by the

242 dealer, without any deduction therefrom on account of the cost of the property sold, the cost of materials  
 243 used, labor or service costs, losses or any other expenses whatsoever. "Sales price" does not include (i) any  
 244 cash discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from credit  
 245 extended on sales of tangible personal property under conditional sale contracts or other conditional contracts  
 246 providing for deferred payments of the purchase price; (iii) separately stated local property taxes collected;  
 247 (iv) that portion of the amount paid by the purchaser as a discretionary gratuity added to the price of a meal;  
 248 or (v) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by a  
 249 restaurant to the price of a meal, but only to the extent that such mandatory gratuity or service charge does  
 250 not exceed 20 percent of the price of the meal. Where used articles are taken in trade, or in a series of trades  
 251 as a credit or part payment on the sale of new or used articles, the tax levied by this chapter shall be paid on  
 252 the net difference between the sales price of the new or used articles and the credit for the used articles.

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

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

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

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

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

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

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

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

304 13. *Travel, event, and aesthetic planning services that are separately billed from the sale of product,*  
 305 *including travel agents, event planning, catering, and interior design services; and*

306 14. *Digital services.*

307 "*Taxable service*" includes any transaction for digital services where the purchaser or consumer of the  
 308 service is a business but does not include any service otherwise exempt under this chapter.

309 "Use" means the exercise of any right or power over tangible personal property incident to the ownership  
 310 thereof, except that it does not include the sale at retail of that property in the regular course of business.

311 "Use" does not include the exercise of any right or power, including use, distribution, or storage, over any  
 312 tangible personal property sold to a nonresident donor for delivery outside of the Commonwealth to a  
 313 nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via mail or  
 314 telephone. "Use" does not include any sale determined to be a gift transaction, subject to tax under §  
 315 58.1-604.6.

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

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

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

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

327 **§ 58.1-603. (Contingent expiration date) Imposition of sales tax.**

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

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

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

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

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

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

345 **§ 58.1-603. (Contingent effective date) Imposition of sales tax.**

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

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

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

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

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

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

364 **§ 58.1-603.1. (Contingent expiration date) Additional state sales tax in certain counties and cities.**

365 A. 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 a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title  
 367 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more as shown by the most recent  
 368 United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit  
 369 ridership of not less than 15 million riders per year across all transit systems within the Planning District or  
 370 (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and  
 371 also meets the vehicle registration and ridership criteria set forth in clause (i), a retail sales tax at the rate of  
 372 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective  
 373 beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.

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

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

385 D. The revenue generated and collected pursuant to the tax authorized under this section, less the  
 386 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds  
 387 established by law. In the case of Planning District 8, the revenue generated and collected therein shall be  
 388 deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue generated  
 389 and collected therein shall be deposited into the fund established in § 33.2-2600. In the case of Planning  
 390 District 15, the revenue generated and collected therein shall be deposited into the fund established in §  
 391 33.2-3701. For additional planning districts that may become subject to this section, funds shall be  
 392 established by appropriate legislation.

393 **§ 58.1-603.1. (Contingent effective date) Additional state sales tax in certain counties and cities.**

394 In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in each  
 395 county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title  
 396 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more as shown by the most recent  
 397 United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit  
 398 ridership of not less than 15 million riders per year across all transit systems within the Planning District or  
 399 (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and  
 400 also meets the vehicle registration and ridership criteria set forth in clause (i), a retail sales tax at the rate of  
 401 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective  
 402 beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.  
 403 ~~Such tax shall not be levied upon food purchased for human consumption and essential personal hygiene~~  
 404 ~~products, as such terms are defined in § 58.1-611.1. Such tax shall be added to the rate of the state sales tax~~  
 405 imposed pursuant to § 58.1-603 in each such county and city and shall be subject to all the provisions of this  
 406 chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be  
 407 allowed for the tax imposed under this section. Such tax shall be administered and collected by the Tax  
 408 Commissioner in the same manner and subject to the same penalties as provided for the state sales tax under  
 409 § 58.1-603.

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

416 **§ 58.1-603.2. (For contingent expiration date, see Acts 2018, c. 850) Additional state sales and use**  
 417 **tax in certain counties and cities of historic significance; Historic Triangle Marketing Fund.**

418 A. For purposes of this section:

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

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

423 B. In addition to the sales tax imposed pursuant to §§ 58.1-603 and 58.1-603.1, there is hereby levied and  
 424 imposed in the Historic Triangle a retail sales tax at the rate of one percent. ~~Such tax shall not be levied upon~~  
 425 ~~food purchased for human consumption and essential personal hygiene products, as such terms are defined in~~  
 426 ~~§ 58.1-611.1. Such tax shall be added to the rate of the state sales tax imposed pursuant to §§ 58.1-603 and~~

427 58.1-603.1 in each such county and city and shall be subject to all the provisions of this chapter and the rules  
428 and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax  
429 imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the  
430 same manner and subject to the same penalties as provided for the state sales tax under § 58.1-603.

431 C. In addition to the use tax imposed pursuant to §§ 58.1-604 and 58.1-604.01, there is hereby levied and  
432 imposed in the Historic Triangle a retail use tax at the rate of one percent. ~~Such tax shall not be levied upon~~  
433 ~~food purchased for human consumption and essential personal hygiene products, as such terms are defined in~~  
434 ~~§ 58.1-611.1.~~ Such tax shall be added to the rate of the state use tax imposed pursuant to §§ 58.1-604 and  
435 58.1-604.01 in each such county and city and shall be subject to all the provisions of this chapter and the  
436 rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the  
437 tax imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the  
438 same manner and subject to the same penalties as provided for the state use tax under § 58.1-604.

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

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

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

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

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

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

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

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

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

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

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

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

472 2. The Williamsburg Tourism Council (the Council) is established as an advisory board in the legislative  
473 branch of state government. The Council shall consist of members as follows: one member of the James City  
474 County Board of Supervisors, one member of the York County Board of Supervisors; one member of the  
475 Williamsburg City Council, one representative of the Colonial Williamsburg Foundation, one representative  
476 of the Jamestown-Yorktown Foundation, one representative of Busch Gardens Williamsburg, one  
477 representative of the Jamestown Rediscovery Foundation, one representative of the Williamsburg Hotel and  
478 Motel Association, and one representative of the Williamsburg Area Restaurant Association. The Chair of the  
479 Greater Williamsburg Chamber of Commerce and the Chief Executive Officer of the Virginia Tourism  
480 Corporation shall serve as ex officio, nonvoting members of the Council.

481 3. The Council shall establish the Historic Triangle Office of Marketing and Promotion (the Office) to  
482 administer a program of marketing, advertising, and promotion to attract visitors to the Historic Triangle area,  
483 as required by this subsection. The Council shall use moneys in the Fund to fund the pay for necessary  
484 expenses of the Office and to fund the activities of the Office. The Office shall be overseen by a professional  
485 with extensive experience in marketing or advertising and in the tourism industry. The Office shall be  
486 responsible for (i) developing and implementing, in consultation with the Council, long-term and short-term  
487 strategic plans for advertising and promoting the numerous facilities, venues, and attractions devoted to



488 education, historic preservation, amusement, entertainment, and dining in the Historic Triangle as a cohesive  
 489 and unified travel destination for local, national, and international travelers; (ii) assisting, upon request, with  
 490 the coordination of cross-advertising and cross-marketing efforts between various tourism venues and  
 491 destinations in the Historic Triangle region; (iii) identifying strategies for both increasing the number of  
 492 overnight visitors to the region and increasing the average length of stay of tourists in the region; and (iv)  
 493 performing any other function related to the promotion of the Historic Triangle region as may be identified by  
 494 the Council.

495 4. The Council shall report annually on its long-term and short-term strategic plans and the  
 496 implementation of such plans; marketing efforts; metrics regarding tourism in the Historic Triangle region;  
 497 use of the funds in the Fund; and any other details relevant to the work of the Council and the Office. Such  
 498 report shall be delivered no later than December 1 of each year to the managers or chief executive officers of  
 499 the City of Williamsburg and the Counties of James City and York, and to the Chairmen of the House  
 500 Committees on Finance and Appropriations and the Senate Committee on Finance and Appropriations.

501 **§ 58.1-604.01. (For contingent expiration dates, see Acts 2013, c. 766, and Acts 2020, c. 1235)**  
 502 **Additional state use tax in certain counties and cities.**

503 A. In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in each  
 504 county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title  
 505 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more, as shown by the most recent  
 506 United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit  
 507 ridership of not less than 15 million riders per year across all transit systems within the Planning District or  
 508 (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and  
 509 also meets the vehicle registration and ridership criteria set forth in clause (i), a retail use tax at the rate of  
 510 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective  
 511 beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.

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

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

523 D. The revenue generated and collected pursuant to the tax authorized under this section, less the  
 524 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds  
 525 established by law. In the case of Planning District 8, the revenue generated and collected therein shall be  
 526 deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue generated  
 527 and collected therein shall be deposited into the fund established in § 33.2-2600. In the case of Planning  
 528 District 15, the revenue generated and collected therein shall be deposited into the fund established in §  
 529 33.2-3701. For any additional planning districts that may become subject to this section, funds shall be  
 530 established by appropriate legislation.

531 **§ 58.1-604.01. (For contingent effective date, see Acts 2020, c. 1235; for contingent expiration date,**  
 532 **see Acts 2013, c. 766) Additional state use tax in certain counties and cities.**

533 In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in each  
 534 county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title  
 535 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more, as shown by the most recent  
 536 United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit  
 537 ridership of not less than 15 million riders per year across all transit systems within the Planning District or  
 538 (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and  
 539 also meets the vehicle registration and ridership criteria set forth in clause (i), a retail use tax at the rate of  
 540 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective  
 541 beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.  
 542 ~~Such tax shall not be levied upon food purchased for human consumption and essential personal hygiene~~  
 543 ~~products, as such terms are defined in § 58.1-611.1. Such tax shall be added to the rate of the state use tax~~  
 544 imposed pursuant to § 58.1-604 in such county and city and shall be subject to all the provisions of this  
 545 chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be  
 546 allowed for the tax described under this section. Such tax shall be administered and collected by the Tax  
 547 Commissioner in the same manner and subject to the same penalties as provided for the state use tax under §  
 548 58.1-604.

549 The revenue generated and collected pursuant to the tax authorized under this section, less the applicable

550 portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds established by  
551 law. In the case of Planning District 8, the revenue generated and collected therein shall be deposited into the  
552 fund established in § 33.2-2509. In the case of Planning District 23, the revenue generated and collected  
553 therein shall be deposited into the fund established in § 33.2-2600. For any additional Planning Districts that  
554 may become subject to this section, funds shall be established by appropriate legislation.

555 **§ 58.1-605.1. Additional local sales tax in certain localities; use of revenues for construction or**  
556 **renovation of schools.**

557 A. 1. In addition to the sales tax authorized under § 58.1-605, a qualifying locality may levy a general  
558 retail sales tax at a rate not to exceed one percent as determined by its governing body to provide revenue  
559 solely for capital projects for the construction or renovation of schools in each such locality. Such tax shall be  
560 added to the rates of the state and local sales tax imposed by this chapter and shall be subject to all the  
561 provisions of this chapter and the rules and regulations published with respect thereto. No discount under §  
562 58.1-622 shall be allowed on this local sales tax.

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

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

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

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

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

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

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

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

610 **§ 58.1-606.1. Additional local use tax in certain localities; use of revenues for construction or**

611 **renovation of schools.**

612 A. 1. The governing body of a qualifying locality may levy a use tax at the rate of such sales tax under §  
613 58.1-605.1 to provide revenue for capital projects for the construction or renovation of schools in such  
614 locality. Such tax shall be added to the rates of the state and local use tax imposed by this chapter and shall be  
615 subject to all the provisions of this chapter, and all amendments thereof, and the rules and regulations  
616 published with respect thereto, except that no discount under § 58.1-622 shall be allowed on a local use tax.

617 2. Any tax imposed pursuant to this section shall expire (i) if the capital projects for the construction or  
618 renovation of schools are to be financed by bonds or loans, on the date by which such bonds or loans shall be  
619 repaid or (ii) if the capital projects for the construction or renovation of schools are not to be financed by  
620 bonds or loans, on a date chosen by the governing body and specified in any resolution passed pursuant to the  
621 provisions of subsection B. Such expiration date shall not be more than 20 years after the date of the  
622 resolution passed pursuant to the provisions of subsection B.

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

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

633 D. The local use tax authorized by this section shall not apply to transactions to which the sales tax  
634 applies, the situs of which for state and local sales tax purposes is the locality of location of each place of  
635 business of every dealer paying the tax to the Commonwealth without regard to the locality of possible use by  
636 the purchasers. However, the local use tax authorized by this section shall apply to tangible personal property  
637 purchased outside the Commonwealth for use or consumption within the locality imposing the local use tax,  
638 or stored within the locality for use or consumption, where the property would have been subject to the sales  
639 tax if it had been purchased within the Commonwealth. The local use tax shall also apply to leases or rentals  
640 of tangible personal property where the place of business of the lessor is outside the Commonwealth and such  
641 leases or rentals are subject to the state tax. Moreover, the local use tax shall apply in all cases in which the  
642 state use tax applies.

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

650 F. Local use tax revenue shall be deposited in the special fund established pursuant to subsection E of §  
651 58.1-605.1. The Comptroller shall distribute the revenue to the qualifying locality.

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

655 **§ 58.1-609.5. Service exemptions.**

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

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

663 2. ~~An amount separately charged for labor or services rendered in installing, applying, remodeling, or~~  
664 ~~repairing property sold or rented~~ *Health care services. For purposes of this section, "health care services"*  
665 *means services that must be provided by or under the direction of persons who must be licensed or certified*  
666 *by a board within the Department of Health Professions pursuant to Subtitle III (§ 54.1-2400 et seq.) of Title*  
667 *54.1.*

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

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

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

- 673 5. Transportation charges separately stated.
- 674 ~~4. Separately stated charges for alterations to apparel, clothing and garments.~~
- 675 ~~5. 6. Charges for gift wrapping services performed by a nonprofit organization.~~
- 676 ~~6. An amount separately charged for labor or services rendered in connection with the modification of~~  
677 ~~prewritten programs as defined in § 58.1-602.~~
- 678 ~~7. Custom programs as defined in § 58.1-602.~~
- 679 ~~8. An amount separately charged for labor rendered in connection with diagnostic work for automotive~~  
680 ~~repair and emergency roadside service for motor vehicles, as defined by § 46.2-100, regardless of whether~~  
681 ~~there is a sale of a repair or replacement part or a shop supply charge.~~
- 682 ~~9. 7. The sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for~~  
683 ~~more than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or~~  
684 ~~any other place in which rooms, lodging, space or accommodations are regularly furnished to transients for a~~  
685 ~~consideration.~~
- 686 ~~10. Beginning January 1, 1996, maintenance contracts, the terms of which provide for both repair or~~  
687 ~~replacement parts and repair labor, shall be subject to tax upon one-half of the total charge for such contracts~~  
688 ~~only. Persons providing maintenance pursuant to such a contract may purchase repair or replacement parts~~  
689 ~~under a resale certificate of exemption. Warranty plans issued by an insurance company, which constitute~~  
690 ~~insurance transactions, are subject to the provisions of subdivision 1 above.~~
- 691 ~~8. Residential cleaning, home repair or maintenance, or landscaping services that are purchased by a~~  
692 ~~homeowners' association or similar entity or by a landlord for the benefit of his tenant.~~
- 693 **§ 58.1-609.11. Exemptions for nonprofit entities.**
- 694 A. For purposes of this section, "nonprofit organization" or "nonprofit entity" means an entity that meets  
695 the requirements of subsection D. "Nonprofit organization" or "nonprofit entity" includes a single member  
696 limited liability company whose sole member is a nonprofit organization.
- 697 B. Any nonprofit organization that holds a valid certificate of exemption from the Department of  
698 Taxation, or any nonprofit church that holds a valid self-executing certificate of exemption, that exempts it  
699 from collecting or paying state and local retail sales or use taxes as of June 30, 2003, pursuant to § 58.1-609.4  
700 , 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  
701 remain exempt from the collection or payment of such taxes under the same terms and conditions as provided  
702 under such sections as such sections existed on June 30, 2003, until: (i) July 1, 2007, for such entities that  
703 were exempt under § 58.1-609.4; (ii) July 1, 2008, for such entities that were exempt under § 58.1-609.7; (iii)  
704 July 1, 2004, for the first one-half of such entities that were exempt under § 58.1-609.8, except churches,  
705 which will remain exempt under the same criteria and procedures in effect for churches on June 30, 2003; (iv)  
706 July 1, 2005, for the second one-half of such entities that were exempt under § 58.1-609.8; and (v) July 1,  
707 2006, for such entities that were exempt under § 58.1-609.9 or under § 58.1-609.10. At the end of the  
708 applicable period of such exemptions, to maintain or renew an exemption for the period of time set forth in  
709 subsection G, each entity must follow the procedures set forth in subsection C and meet the criteria set forth  
710 in subsection D. Provided, however, that any entity that was exempt from collecting sales and use tax shall  
711 continue to be exempt from such collection, and any entity that was exempt from paying sales and use tax for  
712 the purchase of services, as of June 30, 2003, shall continue to be exempt from such payment, provided that it  
713 follows the other procedures set forth in subsection C and meets the criteria set forth in subsection D.  
714 Provided further, however, that an educational institution doing business in the Commonwealth which  
715 provides a face-to-face educational experience in American government and was exempt pursuant to  
716 subdivision 4 of § 58.1-609.4 from paying sales and use tax for the purchase of services, as of June 30, 2003,  
717 shall continue to be exempt from such payment, provided that it follows the other procedures set forth in  
718 subsection C and meets the criteria set forth in subsection D.
- 719 C. 1. On and after July 1, 2004, in addition to the organizations described in subsection B, and except as  
720 restricted in subdivision 2, the tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605  
721 and 58.1-606 shall not apply to purchases of *taxable services or* tangible personal property for use or  
722 consumption by any nonprofit entity that, pursuant to this section, (i) files an appropriate application with the  
723 Department of Taxation, (ii) meets the applicable criteria, and (iii) is issued a certificate of exemption from  
724 the Department of Taxation for the period of time covered by the certificate.
- 725 2. If the entity that is exempt under this section is exempt from federal income tax under § 501(c)(19) of  
726 the Internal Revenue Code, or has annual gross receipts of less than \$5,000 and is organized for at least one  
727 of the purposes set forth in § 501(c)(19) of the Internal Revenue Code, then the exemption under this section  
728 for such entity shall not apply to purchases of *taxable services or* tangible personal property that are used  
729 primarily (i) for social and recreational activities for members or (ii) for providing insurance benefits to  
730 members or members' dependents.
- 731 D. To qualify for the exemption under subsection C, a nonprofit entity must meet the applicable criteria  
732 under this subsection as follows:
- 733 1. a. The entity is exempt from federal income taxation (i) under § 501(c)(3) of the Internal Revenue

734 Code; (ii) under § 501(c)(4) of the Internal Revenue Code and is organized for a charitable purpose; or (iii)  
735 under § 501(c)(19) of the Internal Revenue Code; or

736 b. The entity has annual gross receipts of less than \$5,000, and the entity is organized for at least one of  
737 the purposes set forth in § 501(c)(3) of the Internal Revenue Code, one of the charitable purposes set forth in  
738 § 501(c)(4) of the Internal Revenue Code, or one of the purposes set forth in § 501(c)(19) of the Internal  
739 Revenue Code; and

740 2. The entity is in compliance with all applicable state solicitation laws and, where applicable, provides  
741 appropriate verification of such compliance; and

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

744 4. If the entity's gross annual revenue was at least \$750,000 in the previous year, then the entity must  
745 provide a financial review performed by an independent certified public accountant. However, for any entity  
746 with gross annual revenue of at least \$1.5 million in the previous year, the Department may require that the  
747 entity provide a financial audit performed by an independent certified public accountant. If the Department  
748 specifically requires an entity with gross annual revenue of at least \$1.5 million in the previous year to  
749 provide a financial audit performed by an independent certified public accountant, then the entity shall  
750 provide such audit in order to qualify for the exemption under this section, which audit shall be in lieu of the  
751 financial review; and

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

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

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

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

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

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

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

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

779 **§ 58.1-611.1. Exemption for food purchased for human consumption and essential personal hygiene**  
780 **products.**

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

786 B. 1. On and after January 1, 2023, *but before July 1, 2025*, and except for taxes imposed pursuant to §§  
787 58.1-605 and 58.1-606, no tax shall be imposed under this chapter, or pursuant to any authority granted under  
788 this chapter, on food purchased for human consumption or essential personal hygiene products.

789 2. *On and after July 1, 2025, no tax shall be imposed under this chapter, or pursuant to any authority*  
790 *granted under this chapter, on food purchased for human consumption or essential personal hygiene*  
791 *products.*

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

795 D. 1. As used in this section, "food purchased for human consumption" has the same meaning as "food"

796 defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted  
 797 pursuant to that Act, except it shall not include seeds and plants which produce food for human consumption.  
 798 For the purpose of this section, "food purchased for human consumption" shall not include food sold by any  
 799 retail establishment where the gross receipts derived from the sale of food prepared by such retail  
 800 establishment for immediate consumption on or off the premises of the retail establishment constitutes more  
 801 than 80 percent of the total gross receipts of that retail establishment, including but not limited to motor fuel  
 802 purchases, regardless of whether such prepared food is consumed on the premises of that retail establishment.  
 803 For purposes of this section, "retail establishment" means each place of business for which any "dealer," as  
 804 defined in § 58.1-612, is required to apply for and receive a certificate of registration pursuant to § 58.1-613.

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

810 **§ 58.1-612. Tax collectible from dealers; "dealer" defined; jurisdiction.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

856 7. Is owned or controlled by the same interests which own or control a business located within this

857 Commonwealth;

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

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

863 10. Receives more than \$100,000 in gross revenue, or other minimum amount as may be required by  
864 federal law, from retail sales in the Commonwealth in the previous or current calendar year, provided that in  
865 determining the amount of a dealer's gross revenues, the sales made by all commonly controlled persons as  
866 defined in subsection D shall be aggregated; or

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

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

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

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

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

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

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

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

906 **§ 58.1-623. Sales or leases presumed subject to tax; exemption certificates.**

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

912 B. The certificate mentioned in this section shall relieve the person who takes such certificate from any  
913 liability for the payment or collection of the tax, except upon notice from the Tax Commissioner that such  
914 certificate is no longer acceptable. Such certificate shall be signed by and bear the name and address of the  
915 taxpayer; shall indicate the number of the certificate of registration, if any, issued to the taxpayer; shall  
916 indicate the general character of the taxable service or tangible personal property sold, distributed, leased, or  
917 stored, or to be sold, distributed, leased, or stored under a blanket exemption certificate; and shall be

918 substantially in such form as the Tax Commissioner may prescribe. If an exemption pertains to a nonprofit  
919 organization, other than a nonprofit church, that has qualified for a sales and use tax exemption under §  
920 58.1-609.11, the exemption certificate shall be valid until the scheduled expiration date stated on the  
921 exemption certificate.

922 C. If a taxpayer who gives a certificate under this section makes any use of the *taxable service or tangible*  
923 *personal* property other than an exempt use or retention, demonstration, or display while holding the property  
924 for resale, distribution, or lease in the regular course of business, such use shall be deemed a taxable sale by  
925 the taxpayer as of the time the property or service is first used by him, and the cost of the property *or service*  
926 to him shall be deemed the sales price of such retail sale. If the sole use of the property *or service* other than  
927 retention, demonstration, or display in the regular course of business is the rental of the property *or service*  
928 while holding it for sale, distribution, or lease, the taxpayer may elect to pay the tax on the amount of the  
929 rental charged, rather than the cost of the property *or service* to him.

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

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

940 **§ 58.1-638. Disposition of state sales and use tax revenue.**

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

943 The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted by the  
944 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided in this  
945 section, to the Commonwealth Transportation Fund established pursuant to § 33.2-1524. The Fund's share of  
946 such net revenue shall be computed as an estimate of the net revenue to be received into the state treasury  
947 each month, and such estimated payment shall be adjusted for the actual net revenue received in the  
948 preceding month. All payments shall be made to the Fund on the last day of each month.

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

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

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



979 constituting a school division, the county treasurer shall pay into the town treasury for maintenance,  
 980 operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the  
 981 public schools, the proper proportionate amount received by him in the ratio that the school population of  
 982 such town bears to the school population of the entire county. If the school population of any city or of any  
 983 town constituting a school division is increased by the annexation of territory since the last estimate of school  
 984 population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of  
 985 this section, be added to the school population of such city or town as shown by the last such estimate and a  
 986 proper reduction made in the school population of the county or counties from which the annexed territory  
 987 was acquired.

988 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a two  
 989 percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of hunting  
 990 equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment, wildlife-watching  
 991 equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the most recent U.S.  
 992 Department of the Interior, Fish and Wildlife Service and U.S. Department of Commerce, Bureau of the  
 993 Census National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, shall be paid into the  
 994 Game Protection Fund established under § 29.1-101 and shall be used, in part, to defray the cost of law  
 995 enforcement. Not later than 30 days after the close of each quarter, the Comptroller shall transfer to the Game  
 996 Protection Fund the appropriate amount of collections to be dedicated to such Fund. At any time that the  
 997 balance in the Capital Improvement Fund, established under § 29.1-101.01, is equal to or in excess of \$35  
 998 million, any portion of sales and use tax revenues that would have been transferred to the Game Protection  
 999 Fund, established under § 29.1-101, in excess of the net operating expenses of the Board, after deduction of  
 1000 other amounts which accrue to the Board and are set aside for the Game Protection Fund, shall remain in the  
 1001 general fund until such time as the balance in the Capital Improvement Fund is less than \$35 million.

1002 F. 1. Of the net revenue generated from the one-half percent increase in the rate of the state sales and use  
 1003 tax effective August 1, 2004, pursuant to enactments of the 2004 Special Session I of the General Assembly,  
 1004 the Comptroller shall transfer from the general fund of the state treasury to the Public Education Standards of  
 1005 Quality/Local Real Estate Property Tax Relief Fund established under § 58.1-638.1 an amount equivalent to  
 1006 one-half of the net revenue generated from such one-half percent increase as provided in this subdivision. The  
 1007 transfers to the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund under this  
 1008 subdivision shall be for one-half of the net revenue generated (and collected in the succeeding month) from  
 1009 such one-half percent increase for the month of August 2004 and for each month thereafter.

1010 2. Beginning July 1, 2013, of the remaining sales and use tax revenue, an amount equal to the revenue  
 1011 generated by a 0.125 percent sales and use tax shall be distributed to the Public Education Standards of  
 1012 Quality/Local Real Estate Property Tax Relief Fund established under § 58.1-638.1, and be used for the  
 1013 state's share of Standards of Quality basic aid payments.

1014 3. For the purposes of the Comptroller making the required transfers under subdivision 1 and 2, the Tax  
 1015 Commissioner shall make a written certification to the Comptroller no later than the twenty-fifth of each  
 1016 month certifying the sales and use tax revenues generated in the preceding month. Within three calendar days  
 1017 of receiving such certification, the Comptroller shall make the required transfers to the Public Education  
 1018 Standards of Quality/Local Real Estate Property Tax Relief Fund.

1019 G. (Contingent expiration date) Beginning July 1, 2020, of the remaining sales and use tax revenue, an  
 1020 amount equal to 20 percent of the revenue generated by a one-half percent sales and use tax, such as that paid  
 1021 to the Commonwealth Transportation Fund as provided in subsection A, shall be paid to the Commonwealth  
 1022 Transportation Fund established pursuant to § 33.2-1524.

1023 The Commonwealth Transportation Fund's share of the net revenue distributable under this subsection  
 1024 shall be computed as an estimate of the net revenue to be received into the state treasury each month, and  
 1025 such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All  
 1026 payments shall be made to the Fund on the last day of each month.

1027 H. (Contingent expiration date)

1028 1. The additional revenue generated by increases in the state sales and use tax from Planning District 8  
 1029 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  
 1030 fund established under § 33.2-2509.

1031 2. The additional revenue generated by increases in the state sales and use tax from Planning District 23  
 1032 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  
 1033 fund established under § 33.2-2600.

1034 3. (For contingent expiration date, see Acts 2020, c. 1235) The additional revenue generated by increases  
 1035 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,  
 1036 and 58.1-614 shall be deposited by the Comptroller in the fund established under § 33.2-3701.

1037 4. The additional revenue generated by increases in the state sales and use tax in any other Planning  
 1038 District pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall be deposited into special  
 1039 funds that shall be established by appropriate legislation.

1040 5. The net revenues distributable under this subsection shall be computed as an estimate of the net revenue

1041 to be received by the state treasury each month, and such estimated payment shall be adjusted for the actual  
 1042 net revenue received in the preceding month. All payments shall be made to the appropriate funds on the last  
 1043 day of each month.

1044 I. (For contingent expiration date, see Acts 2018, c. 850) The additional revenue generated by increases in  
 1045 the state sales and use tax from the Historic Triangle pursuant to § 58.1-603.2 shall be deposited by the  
 1046 Comptroller as follows: (i) 50 percent shall be deposited into the Historic Triangle Marketing Fund  
 1047 established pursuant to subsection F of § 58.1-603.2; and (ii) 50 percent shall be deposited in the special fund  
 1048 created pursuant to subdivision D 2 of § 58.1-603.2 and distributed to the localities in which the revenues  
 1049 were collected. The net revenues distributable under this subsection shall be computed as an estimate of the  
 1050 net revenues to be received by the state treasury each month, and such estimated payment shall be adjusted  
 1051 for the actual net revenue received in the preceding month. All payments shall be made to the appropriate  
 1052 funds on the last day of each month.

1053 J. *The revenues generated by the imposition of sales and use taxes on taxable services and digital*  
 1054 *personal property, as defined in § 58.1-602 shall be allocated in the same manner prescribed for all other*  
 1055 *state sales and use tax revenue by subsections A through I. However, revenues generated by the imposition of*  
 1056 *sales and use taxes on taxable services and digital personal property, as defined in § 58.1-602 that are*  
 1057 *allocated to the general fund, and not specifically distributed as described in subsections A through I, shall*  
 1058 *be distributed to localities as follows: (i) 60 percent of such revenues shall be distributed to localities on the*  
 1059 *basis of school-age population as described in subsections C and D and (ii) 40 percent of such revenues shall*  
 1060 *be distributed to localities on the basis of high-need student population. Revenues distributed pursuant to*  
 1061 *clause (ii) shall be distributed in the same manner as provided in subsections C and D, mutatis mutandis. For*  
 1062 *purposes of this section, "high-need student population" means the number of students in a locality who are*  
 1063 *(a) identified students, as defined in 42 U.S.C. § 1759a or any successor provision; (b) participants in a*  
 1064 *program of special education established pursuant to Article 2 (§ 22.1-213 et seq.) of Chapter 13 of Title*  
 1065 *22.1; or (c) English language learners.*

1066 K. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be  
 1067 corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

1068 ~~K-~~ L. The term "net revenue," as used in this section, means the gross revenue received into the general  
 1069 fund or the Commonwealth Transportation Fund of the state treasury under the preceding sections of this  
 1070 chapter, less refunds to taxpayers.

1071 **§ 58.1-647. Definitions.**

1072 Terms used in this chapter shall have the same meanings as those used in Chapter 6 of this title (§  
 1073 58.1-600 et seq.), unless defined otherwise, as follows:

1074 "Cable service" means the one-way transmission to subscribers of (i) video programming as defined in 47  
 1075 U.S.C. § 522 ~~(20)~~ 522(20) or (ii) other programming service, and subscriber interaction, if any, which is  
 1076 required for the selection of such video programming or other programming service. Cable service does not  
 1077 include any video programming provided by a commercial mobile service provider as defined in 47 U.S.C. §  
 1078 332 ~~(d)~~ 332(d) and any direct-to-home satellite service as defined in 47 U.S.C. § 303 ~~(v)~~ 303(v).

1079 "Call-by-call basis" means any method of charging for telecommunications services where the price is  
 1080 measured by individual calls.

1081 "Coin-operated communications service" means a communications service paid for by means of inserting  
 1082 coins in a coin-operated telephone.

1083 "Communications services" means the electronic transmission, conveyance, or routing of voice, data,  
 1084 audio, video, or any other information or signals, including cable services, and any other service utilizing any  
 1085 communications infrastructure, including international calling services, extended call area services, and  
 1086 Internet application-based services, to a point or between or among points, by or through any electronic,  
 1087 radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised,  
 1088 regardless of the protocol used for the transmission or conveyance. ~~The term~~ "Communications services"  
 1089 includes, but is not limited to, (i) the connection, movement, change, or termination of communications  
 1090 services; (ii) detailed billing of communications services; (iii) sale of directory listings in connection with a  
 1091 communications service; (iv) central office and custom calling features; (v) voice mail and other messaging  
 1092 services; ~~and~~ (vi) directory assistance; (vii) prepaid calling services; and (viii) digital subscription services.  
 1093 *With the exception of digital subscription services, "communications services" applies to any service*  
 1094 *described or listed in this definition, regardless of whether the customer is billed for such service on the basis*  
 1095 *of a subscription charge, a periodic charge, or a charge for actual usage, including such a fee for the use of*  
 1096 *an Internet-based application, excluding the original cost of purchasing the application.*

1097 "Communications services provider" means every person who provides communications services to  
 1098 customers in the Commonwealth and is or should be registered with the Department as a provider.

1099 "Cost price" means the actual cost of the purchased communications service computed in the same  
 1100 manner as the sales price.

1101 "Customer" means the person who contracts with the seller of communications services. If the person who

1102 utilizes the communications services is not the contracting party, the person who utilizes the services on his  
 1103 own behalf or on behalf of an entity is the customer of such service. "Customer" does not include a reseller of  
 1104 communications services or the mobile communications services of a serving carrier under an agreement to  
 1105 serve the customer outside the communications service provider's licensed service area.

1106 "Customer channel termination point" means the location where the customer either inputs or receives the  
 1107 private communications service.

1108 "*Digital subscription service*" means a service, including audio and visual streaming services, that for a  
 1109 fee allows the user to access and use software, reading materials, or other digital data or applications for a  
 1110 defined period of time, and which products the user does not own or have permanent access to outside of  
 1111 such period of time.

1112 "Information service" means the offering of a capability for generating, acquiring, storing, transforming,  
 1113 processing, retrieving, using, or making available information via communications services for purposes  
 1114 other than the electronic transmission, conveyance, or routing.

1115 "Internet access service" means a service that enables users to access content, information, electronic mail,  
 1116 or other services offered over the Internet, and may also include access to proprietary content, information,  
 1117 and other services as part of a package of services offered to users. "Internet access service" does not include  
 1118 telecommunications services, except to the extent telecommunications services are purchased, used, or sold  
 1119 by a provider of Internet access to provide Internet access.

1120 "Place of primary use" means the street address representative of where the customer's use of the  
 1121 communications services primarily occurs, which must be the residential street address or the primary  
 1122 business street address of the customer. In the case of mobile communications services, the place of primary  
 1123 use shall be within the licensed service area of the home service provider.

1124 "Postpaid calling service" means the communications service obtained by making a payment on a call-by-  
 1125 call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, debit  
 1126 card, or by a charge made to a telephone number that is not associated with the origination or termination of  
 1127 the communications service.

1128 "Prepaid calling service" means the right to access exclusively communications services, which must be  
 1129 paid for in advance and which enables the origination of calls using an access number or authorization code,  
 1130 whether manually or electronically dialed; ~~and that is sold in predetermined units or dollars that decrease in~~  
 1131 ~~number with use.~~

1132 "Private communications service" means a communications service that entitles the customer or user to  
 1133 exclusive or priority use of a communications channel or group of channels between or among channel  
 1134 termination points, regardless of the manner in which such channel or channels are connected, and includes  
 1135 switching capacity, extension lines, stations, and any other associated services that are provided in connection  
 1136 with the use of such channel or channels.

1137 "Retail sale" or a "sale at retail" means a sale of communications services for any purpose other than for  
 1138 resale or for use as a component part of or for the integration into communications services to be resold in the  
 1139 ordinary course of business.

1140 "Sales price" means the total amount charged in money or other consideration by a communications  
 1141 services provider for the sale of the right or privilege of using communications services in the  
 1142 Commonwealth, including any property or other services that are part of the sale. The sales price of  
 1143 communications services shall not be reduced by any separately identified components of the charge that  
 1144 constitute expenses of the communications services provider, including but not limited to, sales taxes on  
 1145 goods or services purchased by the communications services provider, property taxes, taxes measured by net  
 1146 income, and universal-service fund fees.

1147 "Service address" means, (i) the location of the telecommunications equipment to which a customer's call  
 1148 is charged and from which the call originates or terminates, regardless of where the call is billed or paid. If  
 1149 the location is not known in clause (i), "service address" means (ii) the origination point of the signal of the  
 1150 telecommunications system or in information received by the seller from its service provider, where the  
 1151 system used to transport such signals is not that of the seller. If the location is not known in clauses (i) and  
 1152 (ii), the service address means (iii) the location of the customer's place of primary use.

1153 "*Streaming service*" means a method of transmitting or receiving video and audio data over a computer  
 1154 network as a steady, continuous flow, allowing playback to proceed while subsequent data is being received.

1155 **§ 58.1-648. Imposition of sales tax; exemptions.**

1156 A. Beginning January 1, 2007, there is levied and imposed, in addition to all other taxes and fees of every  
 1157 kind imposed by law, a sales or use tax on the customers of communications services in the amount of ~~5%~~  
 1158 ~~five percent~~ of the sales price of each communications service that is sourced to the Commonwealth in  
 1159 accordance with § 58.1-649.

1160 B. The sales price on which the tax is levied shall not include charges for any of the following: (i) an  
 1161 excise, sales, or similar tax levied by the United States or any state or local government on the purchase, sale,  
 1162 use, or consumption of any communications service that is permitted or required to be added to the sales price

1163 of such service, if the tax is stated separately; (ii) a fee or assessment levied by the United States or any state  
1164 or local government, including but not limited to, regulatory fees and emergency telephone surcharges, that is  
1165 required to be added to the price of service if the fee or assessment is separately stated; (iii) coin-operated  
1166 communications services; (iv) ~~sale or recharge of a prepaid calling service;~~ (v) provision of air-to-ground  
1167 radiotelephone services, as that term is defined in 47 C.F.R. § 22.99; ~~(vi)~~ (v) a communications services  
1168 provider's internal use of communications services in connection with its business of providing  
1169 communications services; ~~(vii)~~ (vi) charges for property or other services that are not part of the sale of  
1170 communications services, if the charges are stated separately from the charges for communications services;  
1171 ~~(viii)~~ (vii) sales for resale; ~~(ix)~~ (viii) charges for communications services to the Commonwealth, any political  
1172 subdivision of the Commonwealth, and the federal government and any agency or instrumentality of the  
1173 federal government; and ~~(x)~~ (ix) charges for communications services to any customers on any federal  
1174 military bases or installations when a franchise fee or similar fee for access is payable to the federal  
1175 government, or any agency or instrumentality thereof, with respect to the same communications services.

1176 C. Communications services on which the tax is hereby levied shall not include the following: (i)  
1177 information services; (ii) installation or maintenance of wiring or equipment on a customer's premises; (iii)  
1178 the sale or rental of tangible personal property; (iv) the sale of advertising, including but not limited to,  
1179 directory advertising; (v) bad check charges; (vi) billing and collection services; (vii) Internet access service,  
1180 electronic mail service, electronic bulletin board service, or similar services that are incidental to Internet  
1181 access, such as voice-capable ~~e-mail~~ *email* or instant messaging; (viii) ~~digital products delivered~~  
1182 ~~electronically~~ *personal property or digital services, as those terms are defined in § 58.1-602, such as*  
1183 *including software, downloaded music, ring tones ringtones, and reading materials;* and (ix) over-the-air  
1184 radio and television service broadcast without charge by an entity licensed for such purposes by the Federal  
1185 Communications Commission. Also, those entities exempt from the tax imposed in accordance with the  
1186 provisions of Article 4 (§ 58.1-3812 et seq.) of Chapter 38 of Title 58.1, in effect on January 1, 2006, shall  
1187 continue to be exempt from the tax imposed in accordance with the provisions of this chapter.