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HOUSE BILL NO. 609

Offered January 14, 2026

A BILL to amend and reenact §§ 58.1-416, as it is effective and as it may become effective, 58.1-422.4, and 58.1-422.5, as it may become effective, of the Code of Virginia and to repeal the third enactment of Chapter 256 and the third enactment of Chapter 257 of the Acts of Assembly of 2022, relating to corporate income tax; sourcing of sales other than sales of tangible personal property.

Patron—McNamara

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-416, as it is effective and as it may become effective, 58.1-422.4, and 58.1-422.5, as it may become effective, of the Code of Virginia are amended and reenacted as follows:

§ 58.1-416. (Contingent expiration date — See Editor's note) When certain other sales deemed in the Commonwealth.

A. Sales, other than sales of tangible personal property, are in the Commonwealth if:

1. ~~The income-producing activity is performed in the Commonwealth; or~~

2. ~~The income-producing activity is performed both in and outside the Commonwealth and a greater proportion of the income-producing activity is performed in the Commonwealth than in any other state, based on costs of performance; the taxpayer's market for the sales is in the Commonwealth and the taxpayer's sales in the Commonwealth for the taxable year exceed \$100,000 in aggregate. Except as provided in subsections B and E, the taxpayer's market for sales is in the Commonwealth:~~

1. In the case of sale, rental, lease, or licensing of real property, if and to the extent the property is located in the Commonwealth;

2. In the case of sale of a service, if and to the extent that the benefit of the service is received at a location in the Commonwealth; and

3. a. In the case of intangible property that is rented, leased, or licensed, if and to the extent that the property is used in the Commonwealth. For purposes of this subdivision a, intangible property utilized in marketing a good or service to a consumer is "used in the Commonwealth" if that good or service is purchased by a consumer who is in the Commonwealth; and

b. In the case of intangible property that is sold, if and to the extent that the property is used in the Commonwealth. For purposes of this subdivision b, (i) a contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area is "used in the Commonwealth" if the geographic area includes all or part of the Commonwealth; (ii) receipts from intangible property sales that are contingent on the productivity, use, or disposition of the intangible property are treated as receipts from the rental, lease, or licensing of such intangible property under subdivision a; and (iii) all other receipts from a sale of intangible property are excluded from the numerator and denominator of the sales factor.

~~B. 1. B.~~ For debt buyers, as defined in § 58.1-422.3, sales, other than sales of tangible personal property, are in the Commonwealth if they consist of money recovered on debt that a debt buyer collected from a person who is a resident of the Commonwealth or an entity that has its commercial domicile in the Commonwealth. Such rule shall apply regardless of the location of a debt buyer's business.

~~2. For property information and analytics firms, as defined in § 58.1-422.4, that meet the requirements set forth in § 58.1-422.4, sales of services are in the Commonwealth if they are derived from transactions with a customer or client who receives the benefit of the services in the Commonwealth. Such rule shall apply regardless of the location of a property information and analytics firm's business operations.~~

C. The taxes under this article on the sales described under ~~subsection B~~ *this section* are imposed to the maximum extent permitted under the Constitutions of Virginia and the United States and federal law. For the collection of such taxes on such sales, it is the intent of the General Assembly that the Tax Commissioner and the Department assert the taxpayer's nexus with the Commonwealth to the maximum extent permitted under the Constitutions of Virginia and the United States and federal law.

D. 1. If necessary information is not available to the taxpayer to determine whether a sale other than a sale of tangible personal property is in the Commonwealth pursuant to the provisions of ~~subsections B and C~~ *this section*, the taxpayer may estimate the dollar value or portion of such sale in the Commonwealth, provided that the taxpayer can demonstrate to the satisfaction of the Tax Commissioner that (i) the estimate has been undertaken in good faith, (ii) the estimate is a reasonable approximation of the dollar value or portion of such sale in the Commonwealth, and (iii) in using an estimate the taxpayer did not have as a principal purpose the avoidance of any tax due under this article. The Department may implement procedures for obtaining its

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approval to use an estimate. The Department shall adopt remedies and corrective procedures for cases in which the Department has determined that the sourcing rules for sales other than sales of tangible personal property have been abused by the taxpayer, which may include reliance on the location of income-producing activity and direct costs of performance as described in subsection A of this section, as it was in effect for taxable years beginning before January 1, 2027.

2. In the case of a sale, other than the sale of tangible personal property, pursuant to a contract with the United States by a taxpayer that is a defense contractor as defined by 50 U.S.C. § 4552, where the location of the receipt of the benefit of the service cannot be determined under subsection A or B using a reasonable amount of effort undertaken in good faith, the taxpayer shall estimate the dollar value or portion of such sale in the Commonwealth using the Commonwealth's share of the total population of the relevant geographical market.

3. The population used in subdivision D 2 shall be the United States population as determined by the most recent United States census data as of the beginning of the taxable year. If it can be substantiated by the taxpayer that the service is being delivered to a location or intangible property is being materially used outside the United States, then the populations of those other countries' foreign jurisdictions or geographic areas where the service is being delivered or the intangible property is being materially used shall be added to the United States population.

E. 1. Notwithstanding any other provision of this section, a taxpayer that is a telecommunications company, as defined in § 58.1-400.1, may elect to assign sales, other than sales of tangible personal property, under subdivision E 3 for taxable years beginning on or after January 1, 2027, but before January 1, 2033.

2. An election under this subsection shall be made on the taxpayer's return for the first taxable year for which the taxpayer is eligible for the election, and once made, an election under this subsection cannot be changed for subsequent years without approval in writing by the Tax Commissioner.

3. Sales, other than sales of tangible personal property, are in the Commonwealth if:

- a. The income-producing activity is performed in the Commonwealth; or
- b. The income-producing activity is performed both in and outside the Commonwealth and a greater proportion of the income-producing activity is performed in the Commonwealth than in any other state, based on costs of performance.

§ 58.1-416. (Contingent effective date — See Editor's note) When certain other sales deemed in the Commonwealth.

A. For taxable years beginning on and after January 1, 2027, sales, other than sales of tangible personal property, are in the Commonwealth if:

1. The income-producing activity is performed in the Commonwealth; or
2. The income-producing activity is performed both in and outside the Commonwealth and a greater proportion of the income-producing activity is performed in the Commonwealth than in any other state, based on costs of performance; the taxpayer's market for the sales is in the Commonwealth and the taxpayer's sales in Commonwealth for the taxable year exceed \$100,000 in aggregate. Except as provided in subsections B and E, the taxpayer's market for sales is in the Commonwealth:

1. In the case of sale, rental, lease, or licensing of real property, if and to the extent the property is located in the Commonwealth;

2. In the case of sale of a service, if and to the extent that the benefit of the service is received at a location in the Commonwealth; and

3. a. In the case of intangible property that is rented, leased, or licensed, if and to the extent that the property is used in the Commonwealth. For purposes of this subdivision a, intangible property utilized in marketing a good or service to a consumer is "used in the Commonwealth" if that good or service is purchased by a consumer who is in the Commonwealth; and

b. In the case of intangible property that is sold, if and to the extent that the property is used in the Commonwealth. For purposes of this subdivision b, (i) a contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area is "used in the Commonwealth" if the geographic area includes all or part of the Commonwealth; (ii) receipts from intangible property sales that are contingent on the productivity, use, or disposition of the intangible property are treated as receipts from the rental, lease, or licensing of such intangible property under subdivision a; and (iii) all other receipts from a sale of intangible property are excluded from the numerator and denominator of the sales factor.

~~B. 1.~~ B. For debt buyers, as defined in § 58.1-422.3, sales, other than sales of tangible personal property, are in the Commonwealth if they consist of money recovered on debt that a debt buyer collected from a person who is a resident of the Commonwealth or an entity that has its commercial domicile in the Commonwealth. Such rule shall apply regardless of the location of a debt buyer's business.

2. For property information and analytics firms, as defined in § 58.1-422.4, that meet the requirements set forth in § 58.1-422.4, sales of services are in the Commonwealth if they are derived from transactions with a customer or client who receives the benefit of the services in the Commonwealth. Such rule shall apply

regardless of the location of a property information and analytics firm's business operations.

3. For Internet root infrastructure providers, as defined in § 58.1-422.5, sales of services are in the Commonwealth if they are derived from sales transactions with a customer or client who receives the benefit of the services in the Commonwealth. Such rule shall apply regardless of the location of an Internet root infrastructure provider's operations.

C. The taxes under this article on the sales described under ~~subsection B~~ *this section* are imposed to the maximum extent permitted under the Constitutions of Virginia and the United States and federal law. For the collection of such taxes on such sales, it is the intent of the General Assembly that the Tax Commissioner and the Department assert the taxpayer's nexus with the Commonwealth to the maximum extent permitted under the Constitutions of Virginia and the United States and federal law.

D. 1. If necessary information is not available to the taxpayer to determine whether a sale other than a sale of tangible personal property is in the Commonwealth pursuant to the provisions of ~~subsections B and C~~ *this section*, the taxpayer may estimate the dollar value or portion of such sale in the Commonwealth, provided that the taxpayer can demonstrate to the satisfaction of the Tax Commissioner that (i) the estimate has been undertaken in good faith, (ii) the estimate is a reasonable approximation of the dollar value or portion of such sale in the Commonwealth, and (iii) in using an estimate the taxpayer did not have as a principal purpose the avoidance of any tax due under this article. The Department may implement procedures for obtaining its approval to use an estimate. The Department shall adopt remedies and corrective procedures for cases in which the Department has determined that the sourcing rules for sales other than sales of tangible personal property have been abused by the taxpayer, which may include reliance on the location of income-producing activity and direct costs of performance as described in subsection A of *this section as it was in effect for taxable years beginning before January 1, 2027.*

2. *In the case of a sale, other than the sale of tangible personal property, pursuant to a contract with the United States by a taxpayer that is a defense contractor as defined by 50 U.S.C. § 4552, where the location of the receipt of the benefit of the service cannot be determined under subsection A or B using a reasonable amount of effort undertaken in good faith, the taxpayer shall estimate the dollar value or portion of such sale in the Commonwealth using the Commonwealth's share of the total population of the relevant geographical market.*

3. *The population used in subdivision D 2 shall be the United States population as determined by the most recent United States census data as of the beginning of the taxable year. If it can be substantiated by the taxpayer that the service is delivered to a location or intangible property is being materially used outside the United States, then the populations of those other countries' foreign jurisdictions or geographic areas where the service is being delivered or the intangible property is being materially used shall be added to the United States population.*

E. 1. *Notwithstanding any other provision of this section, a taxpayer that is a telecommunications company as defined in § 58.1-400.1 may elect to assign sales, other than sales of tangible personal property, under subdivision E 3 for taxable years beginning on or after January 1, 2027, but before January 1, 2033.*

2. *An election under this subsection shall be made on the taxpayer's return for the first taxable year for which the taxpayer is eligible for the election, and once made, an election under this subsection cannot be changed for subsequent years without approval in writing by the Tax Commissioner.*

3. *Sales, other than sales of tangible personal property, are in the Commonwealth if:*

- a. The income-producing activity is performed in the Commonwealth; or*
- b. The income-producing activity is performed both in and outside the Commonwealth and a greater proportion of the income producing activity is performed in the Commonwealth than in any other state, based on costs of performance.*

§ 58.1-422.4. Property information and analytics firms.

A. As used in this section:

"Authority" means the Virginia Economic Development Partnership Authority.

"Eligible city" means the City of Richmond.

"Memorandum of understanding" means a performance agreement or related document entered into by a property information and analytics firm and the Authority on or after December 1, 2021, but before August 1, 2022, that sets forth the requirements for capital investments and the creation of new full-time jobs by such property information and analytics firm.

"Property information and analytics firm" means an entity and its affiliated entities that as of January 1, 2022, is primarily a commercial real estate information and analytics firm with a location in an eligible city and that between January 1, 2022, and January 1, 2029 2027, is expected to (i) make or cause to be made a capital investment in an eligible city of at least \$414.45 million and (ii) create at least 1,785 new jobs with average annual wages of at least \$85,000 per job.

B. 1. For taxable years beginning on or after January 1, 2022, but before January 1, 2029 2027, a property information and analytics firm shall be subject to the provisions of ~~subdivision B 2 of § 58.1-416~~ only if the Authority certifies to the Department that it has at least 1,000 full-time employees as of January 1, 2022, in an eligible city, subject to the terms and conditions of the memorandum of understanding.

2. For taxable years beginning on or after January 1, 2029 2027, a property information and analytics firm shall be subject to the provisions of subdivision B 2 of § 58.1-416 only if the Authority certifies to the Department that it has at least 2,785 full-time employees as of January 1, 2029, in an eligible city, and from January 1, 2022, through December 31, 2028, has made or caused to be made a capital investment for its facilities in that eligible city of at least \$414.45 million. Once the Authority certifies a property information and analytics firm has met the job and capital investment requirements set forth in this subdivision, no additional certifications shall be required and the property information and analytics firm shall continue to be subject to the provisions of subdivision B 2 of § 58.1-416 in all future taxable years.

C. The General Assembly finds that the growth of property information and analytics firms, including the capital investment and new jobs spurred by such growth, is essential to the continued fiscal health of the Commonwealth. Accordingly, the provisions of subsections A and B relating to capital investment and new jobs are integral to the purpose of this section. If any provision of this section is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, that provision shall not be deemed severable.

§ 58.1-422.5. (Contingent effective date — See Editor's note) Internet root infrastructure providers.

A. As used in this section:

"Authority" means the Virginia Economic Development Partnership Authority.

"Eligible planning district" means Planning District 8.

"Internet root infrastructure provider" means an entity and its affiliated entities that is designated to operate one or more of the 13 Internet root servers of the Internet Assigned Names Authority (IANA) root and functions as the authoritative directory for one or more Top-Level Domains. This term does not include an Internet service provider, cable service provider, or similar company.

"Internet root server of the IANA root" means a Domain Name System server for one of the 13 root identities (A. - M.) that answers requests for the Domain Name System root zone of the Internet, redirecting requests for each Top-Level Domain to its respective nameservers.

"Memorandum of understanding" means a performance agreement or related document entered into by an Internet root infrastructure provider and the Authority on or after January 1, 2023, but before December 1, 2023, that sets forth the requirements for commitments to the Commonwealth.

B. 1. For taxable years beginning on or after January 1, 2023, but before January 1, 2030 2027, an Internet root infrastructure provider shall be subject to the provisions of subdivision B 3 of § 58.1-416 only if the Authority certifies to the Department that the taxpayer has at least 550 full-time employees with an average annual salary of \$175,000 in an eligible planning district, has entered into a memorandum of understanding with the Authority, and has met the terms of such agreement.

2. For taxable years beginning on or after January 1, 2030 2027, if the Authority certifies to the Department that all requirements of the memorandum of understanding have been satisfied, no additional certifications shall be required, and the Internet root infrastructure provider shall continue to be subject to the provisions of subdivision B 3 of § 58.1-416 in future taxable years.

C. The General Assembly finds that the presence of the Internet root infrastructure provider industry is essential to the continued fiscal health of the Commonwealth. If any provision of this section is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, that provision shall not be deemed severable.

2. That the provisions of this act shall be effective for taxable years beginning on and after January 1, 2027.

3. That the third enactment of Chapter 256 and the third enactment of Chapter 257 of the Acts of Assembly of 2022 are repealed effective for taxable years beginning on and after January 1, 2027.