

# **What's Virginia's Tax Preference?**

Joint Legislative Audit and Review Commission Tax Assessment Study

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## Introduction

1           For over a decade, Virginia has been nationally praised as a state with extremely well-  
2 managed and organized finances. Virginia has been recognized several times as being one of the  
3 “best managed” states by institutions such as Governing Magazine and the Government Finance  
4 Officers Association of the United States and Canada, an accomplishment achieved by few  
5 states.<sup>1</sup> Though Virginia has had much success with its financing in the recent past, the arrival of  
6 a recession in December of 2007 has put a strain on Virginia's state budget and has catalyzed  
7 many changes in Virginia's financial policy over the past few years. The recession has caused a  
8 significant reorganization of Virginia's state budget, changes in Virginia's tax preferences, and  
9 an increased interest in e-commerce as a source of tax revenue. As the recession in Virginia  
10 persists, the state will have to continue reviewing present tax codes in order to ameliorate its  
11 financial situation and to remain one of the most financially stable states in the United States.

12           Before the dawn of the December 2007 recession, Virginia had a strong economy, low  
13 unemployment rate and a climbing rate of median income. Virginia had a remarkable history of  
14 economic strength, and changes in tax policy in both 2005 and 2006 reduced the flow of revenue  
15 to the General Fund for the fiscal year 2008-2010 biennium by an estimated \$724.3 million.<sup>2</sup> In  
16 2006, financial experts were forecasting the continuation of a strong economy, causing the  
17 previously mentioned changes in tax policy, which included the elimination of the estate tax and  
18 shifting part of the revenue from insurance company minimums and the real estate recordation

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<sup>1</sup> Conant, James K. "Budget Deficits in the States: Virginia." *Public Budgeting & Finance/Spring 2010*. (2010): 33-57. Print.

<sup>2</sup> Wagner, J. Department of Finance, (2007). Governor Kaine's Proposed 2008-2010 Budget Retrieved from [http://sfc.virginia.gov/pdf/committee\\_meeting\\_agendas/Joint%20December%202007%20Meeting/JMC-Dec2007.pdf](http://sfc.virginia.gov/pdf/committee_meeting_agendas/Joint%20December%202007%20Meeting/JMC-Dec2007.pdf).

19 tax into various transportation funds, to be passed without any consideration of how they would  
20 affect revenue collection if there were to be a major change in economic stability. As the  
21 recession grew and the economic climate began to shift, it became obvious that Virginia's tax  
22 revenues had begun to plateau. According to U.S. Census Bureau data, as of 2007, Virginia's  
23 general sales tax fund leveled off and the individual income fund began to decrease<sup>3</sup>. Upon  
24 facing such adverse conditions, the General Assembly has taken notice and has since called for  
25 an evaluation of Virginia's tax preferences.

26         The objective of this report is to identify, justify, and analyze Virginia's tax preferences  
27 in both the personal income and sales and use categories. Furthermore, the analysis will be  
28 focused on six consequential tax breaks: three personal use breaks and three sales and use.  
29 Lastly, we conduct the same analysis in consideration of taxing sales carried out via e-commerce.

## **Background**

30         In order to develop the most thorough understanding of Virginia's tax preferences, a  
31 comprehensive list of every tax preference Virginia has to offer has been compiled as shown in  
32 Appendix A. In order to fully understand every tax break, we developed policy justifications for  
33 each. A review of each bill, those who passed it, and the date it was enacted or amended aided in  
34 this process, as well as a review of the literature available. By utilizing these resources, we can  
35 form a better understanding of both the political motivations and the political climate of the time.  
36 These factors provided insight when developing each policy justification and helped us in  
37 providing the most accurate depiction of each tax.

38         From the initial list of tax preferences generated, we have managed to narrow our focus  
39 to six substantial tax breaks as previously mentioned. These preferences were determined using

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<sup>3</sup> "State Government Tax Collections." U.S. Census Bureau. Oct. 12, 2010. <http://www.census.gov/govs/statetax/>.

40 four following specified criteria: estimated fiscal impact, amount of people affected, political  
41 considerations, and policy justifications. Unfortunately, the estimated fiscal impacts are all  
42 derived from a single source. While it would have been ideal to obtain multiple estimates to  
43 ensure reliability, we feel that the number presented provides a starting point for comparison  
44 between preferences and demonstrates the disparities in magnitude. When presenting and  
45 discussing relevant political considerations, an attempt was made to demonstrate the political  
46 environment within which any attempt to change each preference would be couched. The policy  
47 justifications presented in the paper were derived from a combination of pertinent legislation,  
48 relevant literature, and reasoning based on relevant literature. Those that best qualified for  
49 analysis were the extra deduction for those over the age of 65, the land preservation tax credit,  
50 the earned income credit, the reduction of sales tax on food, exempting non-prescription drugs,  
51 and sales tax holidays. Each tax break is dissected to determine its, efficacy, equity, and  
52 efficiency/other considerations that may be associated.

53 Building off this analysis, we dedicated our focus to the problem of taxing e-commerce.  
54 Considering the fact that Virginia does not effectively enforce the use tax inherent to e-  
55 commerce, we viewed it as an implicit tax break. In doing so, we again determined how much of  
56 a consequence the current loss of revenue has on Virginia as well as its potential effect on cross  
57 border competition. Additionally, we took a look into possible solutions to this growing issue  
58 including nexus laws and federal government involvement.

59 Going further, to understand what constitutes best practices among tax preferences a  
60 cross border comparison was undertaken comparing those practices of Virginia to those of  
61 Maryland, West Virginia, Kentucky, Tennessee, and North Carolina. The tax codes of each state

62 were thoroughly examined to determine which tax preferences Virginia has in common with  
63 others and those from which it significantly differentiates.

## **Personal Income Tax Preferences**

### *Extra Deduction for People Over 65*

#### *Background*

64 According to the Virginia Tax Code, the maximum deduction for people over the age of  
65 65 is \$12,000.<sup>4</sup> This deduction reduces the amount of a filer's taxable income, as opposed to  
66 simply reducing tax liability. In 2004, the Virginia General Assembly investigated this impact  
67 and addressed many of the issues that we will be pointing out. However, based on the decision to  
68 grandfather in those who received full benefits in 2004, the preference still costs VA substantial  
69 money. Additionally, although the extra deduction for 65 and older has been adjusted, there still  
70 exists a deduction to those 62-64 that has not been addressed.<sup>5</sup> Most of the analysis is applicable  
71 to this deduction as well.<sup>6</sup>

#### *Estimated Fiscal Impact*

72 The deduction for people over the age of 65, those grandfathered in, will cost VA an  
73 estimated \$273 million in 2010.<sup>7</sup> While this number is based only on grandfathered filers, and as  
74 such will inherently decrease over time, it does not include the cost for the very similar  
75 deduction for those 62-64.

#### *Widespread Use*

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<sup>4</sup> Tax Code of Virginia at §58.1-322 D(5).

<sup>5</sup> Tax Code of Virginia at §58.1-322 D(5a) shows that people aged 62-64 receive a \$6,000 deduction.

<sup>6</sup> As a reference point, the federal government offers a \$5,000 credit for the elderly, plus other exemptions and deductions.

<sup>7</sup> Cassidy, M, & Okos, S. (2009). A drop in the bucket? assessing the high cost of virginia tax expenditures. *The Commonwealth Institute*.

76 As of 2006, most states were allowing some form of tax relief to elderly citizens. Many  
77 focused on Social Security benefits, with 42 states at least allowing an exemption similar to the  
78 federal government, 33 allowing for an extra exemption, and 29 granting a full exemption on  
79 Social Security benefits. Looking beyond Social Security benefits; 10 states allow for a higher  
80 standard deduction, 21 allow for an extra exemption, and 37 states allow for exemption of  
81 pension benefits. It is worth noting that currently only 42 states have a broad-based income tax,  
82 meaning that some benefit for the elderly is universal.<sup>8</sup>

### *Policy Justification*

83 The explicit policy justification is to help the elderly. Many politicians rail against  
84 “taxing the elderly out of their homes.”

### *Political Considerations*

85 Elderly people vote in notoriously high numbers. In 2008, 91% of registered voters aged  
86 65 and above cast a ballot. This compares to only 83% for voters aged 18-24, who have the  
87 lowest percentage. As a percentage of total citizens, those 65 and older voted at a 70.3% rate as  
88 compared to a 63.6% rate across all age groups.<sup>9</sup> This high voting percentage is well known and  
89 effectively leveraged by interest groups such as the AARP, the Alliance for Retired Americans,  
90 and the Gray Panthers. Each group has a massive volunteer membership that is highly motivated,  
91 active politically, and good at reminding politicians that elder citizens vote.<sup>10</sup>

### *Equity*

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<sup>8</sup> State income taxes and senior citizens. (2006). *Institute on Taxation and Economic Policy*, 30. Retrieved from <http://www.itepnet.org/pdf/pb30eld.pdf>

<sup>9</sup> File, T, & Crissey, S. (2010). Voting and registration in the election of November 2008. *US Census Bureau Current Population Reports*, Retrieved from <http://www.census.gov/prod/2010pubs/p20-562.pdf>.

<sup>10</sup> Beard, R, & Williamson, J. (2010). Social policy and the internal dynamics of the senior rights movement. *Journal of Aging Studies*, Retrieved from <http://www2.bc.edu/~jbw/documents/BeardandWilliamson.pdf>.

92 Granting preference to a class of people based on age violates the notion of horizontal  
93 equity; similarly situated people are not being treated the same. It is well established that the tax  
94 code should treat people of similar income levels in a consistent manner. By giving preferential  
95 treatment to elderly citizens regardless of their income level, this notion is violated. The result is  
96 that we are potentially giving help to those elderly citizens who are not in need of assistance. It is  
97 important to note that it is this issue that was addressed by the VA General Assembly in 2004.  
98 For those who turn 65 after 2004, the maximum deduction is reduced by a dollar-for-dollar basis  
99 for all income over \$50,000.<sup>11</sup> This was done in an effort to recognize that not all elderly citizens  
100 are in need of financial assistance, and thereby enhance vertical equity. However, the decision to  
101 grandfather those who were 65 before 2004 will continue to create troubles. Additionally, the  
102 reduction in deduction applies only to the extra deduction for being 65 and over. There is still a  
103 deduction for reaching 62, which has not been addressed and still violates the notion of  
104 horizontal equity.

#### *Efficacy*

105 There are some efficacy issues with this preference, depending on the true justification  
106 for enacting the policy. This preference undeniably helps all elderly; it is simply not perfectly  
107 targeting lower-income elderly. However, if it is designed to help the elderly that need it the  
108 most, it is very ineffective.<sup>12</sup> If the goal was truly to lure or keep retirees, then it is not very  
109 effective at all. If the goal was to curry favor with voters, it is effective in that it targets a group  
110 that does a fair amount of voting.

#### *Efficiency/Other Considerations*

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<sup>11</sup> Tax Code of Virginia at §58.1-322 D(5)

<sup>12</sup> State income taxes and senior citizens. (2006). *Institute on Taxation and Economic Policy*, 30. Retrieved from <http://www.itepnet.org/pdf/pb30eld.pdf>

111 This preference does not distort economic decisions. This is ideal if the goal really is to  
112 help the elderly. It is a little more disappointing if the goal is to lure or keep retirees.  
113 Additionally, elderly citizens often migrate to “retirement destination states.” The goal of any  
114 state could then be to enact tax policy that would ensure classification as a “retirement  
115 destination state,” especially considering that retired people, while traditionally on a fixed  
116 income, tend to spend a bulk of that income. The idea becomes that, at best, by offering an extra  
117 deduction we can entice retirees to pick Virginia over, say Florida. This seems somewhat  
118 unlikely, as the subtraction of \$12,000 operates as a deduction; it is at best a \$12000 reduction in  
119 your taxable income, as opposed to a credit from your tax liability. The total amount reduced  
120 from tax liability as a result would likely be only a couple thousand dollars. At worst, this policy  
121 may be seen to retain the retired community that already exists within the Commonwealth.  
122 However, a study performed in 2009 questions the importance of tax policy on migration flows.  
123 Karen Conway and Jonathon Rork, who frequently look at tax policies for the elderly, used  
124 census flow information, state tax policy, and regression analysis to investigate whether or not  
125 tax policies play a part in a retired person’s decision as to where to retire. Utilizing a “difference-  
126 in-difference” methodology looking at migration in-flows before and after favorable tax policies  
127 were enacted for major importing states, they found that there is no credible evidence that tax  
128 policies impact migration flows. To bolster the statistics, they point out that tax policies tend to  
129 change frequently while migration flows have remained incredibly stable over years.<sup>13</sup> This  
130 demonstrates that while the migration of retired citizens may be a political consideration, it is not  
131 necessarily a sound justification for offering a tax break to an entire class of citizens

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<sup>13</sup> Smith Conway, K, & Rork, J. (2009). No country for old men (or women) -- do state tax policies drive away the elderly?. Retrieved from [http://pubpages.unh.edu/~ksconway/No%20Country%20final%20w\\_tables%20August%202009.pdf](http://pubpages.unh.edu/~ksconway/No%20Country%20final%20w_tables%20August%202009.pdf).

132           There is an additional inherent consequence to almost all tax preferences; decreasing the  
133 taxes on some necessarily increases the taxes on others. This is based on the accepted notion that  
134 the best tax policy has a broad tax base and low tax rates.

### ***Land Preservation Tax Credit***

#### *Background*

135           The Land Preservation Tax Credit is available to anyone who grants land to a public or  
136 private entity for purposes of preservation. It allows for up to 40% of the value of the land  
137 donated to be credited to the filer. It has a maximum credit of \$50,000 in 2009 and 2010, and  
138 will go up to \$100,000 in 2011. The credits available are capped on a yearly basis at an amount  
139 established by the Virginia Tax Code.<sup>14</sup>

#### *Estimated Fiscal Impact*

140           The Land Preservation Tax Credit is slated to cost VA \$120 million in 2010.<sup>15</sup>

#### *Widespread Use*

141           As of 2008, a similar credit was used in 14 other states.<sup>16</sup>

#### *Policy Justification*

142           It encourages the donation of land for preservation purposes and to protect the  
143 environment.

#### *Political Considerations*

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<sup>14</sup> Maroon, J. Commonwealth of Virginia, Department of Conservation and Recreation. (2009). *Calendar year 2008 land preservation tax credit conservation value summary* Retrieved from [http://www.dcr.virginia.gov/virginia\\_land\\_conservation\\_foundation/documents/bienrpt0809.pdf](http://www.dcr.virginia.gov/virginia_land_conservation_foundation/documents/bienrpt0809.pdf).

<sup>15</sup> Cassidy, M, & Okos, S. (2009). A drop in the bucket? assessing the high cost of virginia tax expenditures. *The Commonwealth Institute*.

<sup>16</sup> Maroon, J. Commonwealth of Virginia, Department of Conservation and Recreation. (2009). *Calendar year 2008 land preservation tax credit conservation value summary* Retrieved from [http://www.dcr.virginia.gov/virginia\\_land\\_conservation\\_foundation/documents/bienrpt0809.pdf](http://www.dcr.virginia.gov/virginia_land_conservation_foundation/documents/bienrpt0809.pdf); Other states offering a credit are: California, Colorado, Connecticut, Delaware, Georgia, Iowa, Kentucky, Maryland, Mississippi, New Mexico, New York, North Carolina, South Carolina, and Wyoming. See [wyoinglandtrust.org](http://wyoinglandtrust.org), [inhf.org](http://inhf.org), and the Conservation Resource Center at [http://198.66.224.63/publicpolicy/state\\_tax\\_credits\\_report.pdf](http://198.66.224.63/publicpolicy/state_tax_credits_report.pdf).

144 Preserving land inherently comes at the cost of potential lost economic development. The  
145 forthcoming analysis is based on the assumption that preserving land is ideal, and that the lost  
146 economic development opportunities are not a serious consideration. To assume otherwise would  
147 be to make a political judgment, which is outside the scope of this report.

### *Equity*

148 This credit violates both horizontal and vertical equity. Horizontal equity is violated  
149 because people that choose to make donations of equal value are treated differently depending on  
150 what it is they choose to donate. Vertical equity is not enhanced because higher-income people  
151 are going to be the people who have land to donate.

### *Efficacy*

152 According to the Department of Taxation, from 2000 through 2009 the state gave credits  
153 amounting to \$1 billion. In return, over 450,000 acres have been donated that have an appraised  
154 value of over \$2.15 billion.<sup>17</sup> We could not find a proven better way to encourage people to  
155 donate land for preservation purposes.

### *Efficiency /Other Considerations*

156 There is a real potential to distort charitable donation decisions. Whereas many charities  
157 would be able to get real benefit from cash donations, this credit incentivizes granting land to the  
158 state. This could result in more land being donated than cash. Additionally, while preserving land  
159 has plenty of appreciable benefits, such as cleaner air and water and a more aesthetically pleasing  
160 landscape, the only caveat is that at some point we may decide that we have preserved enough  
161 land. Land preservation comes at the expense of economic development, which may become a  
162 larger focus at some point.

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<sup>17</sup> Maroon, J. Commonwealth of Virginia, Department of Conservation and Recreation. (2009). *Calendar year 2008 land preservation tax credit conservation value summary* Retrieved from [http://www.dcr.virginia.gov/virginia\\_land\\_conservation\\_foundation/documents/bienrpt0809.pdf](http://www.dcr.virginia.gov/virginia_land_conservation_foundation/documents/bienrpt0809.pdf)

## *Earned Income Credit*

### *Background*

163           The Earned Income Credit is largely patterned after the federal Earned Income Tax  
164 Credit. It is available to all Virginians who qualify for the federal Earned Income Tax Credit and  
165 pays 20% of the federal credit.<sup>18</sup>

### *Estimated Fiscal Impact*

166           The Earned Income Credit is estimated to cost VA \$65.1 million in 2010.<sup>19</sup>

### *Widespread Use*

167           There are currently Earned Income Credits, patterned after the federal version, in 23  
168 states and the District of Columbia.<sup>20</sup>

### *Policy Justification*

169           The Earned Income Credit is designed to offer relief to low-income taxpayers and  
170 encourage them to seek employment.<sup>21</sup>

### *Political Considerations*

171           Any attempt to remove the Earned Income Credit would receive a lot of push-back from  
172 advocates for aid to low-income residents. Replacing it with direct payments would be highly  
173 contentious because direct payments do not reward or incentivize working.<sup>22</sup>

### *Equity*

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<sup>18</sup>Virginia Tax Code at § 58.1-339.8.

<sup>19</sup>Cassidy, M, & Okos, S. (2009). A drop in the bucket? assessing the high cost of virginia tax expenditures.*The Commonwealth Institute*.

<sup>20</sup> States that offer credit are: Delaware, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Rhode Island, Vermont, Virginia, Washington and Wisconsin. See Williams, E., Johnson, N., & Shure, J. (2010). State earned income tax credits: 2010 legislative update. *Center on Budget and Policy Priorities*.

<sup>21</sup>Tax Code of Virginia at § 58.1-339.8.

<sup>22</sup> Ventry, D. (1999). The collision of tax and welfare politics: the political history of the earned income tax credit, 1969-99. *The Brookings Institution*, Retrieved from [http://www.cfsinnovation.com/system/files/imported/managed\\_documents/ventry\\_1999.pdf](http://www.cfsinnovation.com/system/files/imported/managed_documents/ventry_1999.pdf).

174           The Earned Income Credit is designed to address vertical equity. Horizontal equity is  
175 often violated in the treatment of marriage. Currently, a single filer receives a greater deduction  
176 than would a married filer, even if they were financially similarly situated.<sup>23</sup>

### *Efficacy*

177           Given the questionable participation rates, it becomes clear that when measured against  
178 other forms of aid, a tax credit is not very effective at providing aid to people with low income.  
179 Simply providing direct payments would be a far more effective means of offering aid. However,  
180 when taking into consideration that using tax credits as aid is often designed to encourage  
181 workforce participation, efficacy becomes less of an issue. A study performed on the federal  
182 EITC in 2002 demonstrated that it works as an effective incentive to encourage lower-income  
183 people to enter the labor-market.<sup>24</sup> There is much debate as to whether or not there is take-up  
184 problem with any Earned Income Credit. Given that the VA version is largely patterned after the  
185 federal version, research done into that can be insightful. One study estimated that, in 1990, the  
186 participation rates of the federal program ranged anywhere from 75 to 90 percent.<sup>25</sup> A decade  
187 later, still another study found that non-compliance rates for an Earned Income Credit is lower  
188 than other welfare programs.<sup>26</sup> The likely problem is that people who are lower-income are less  
189 likely to be aware of the programs that are designed to help them and cannot afford either  
190 professional preparation or tax software.

### *Efficiency/Other Considerations*

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<sup>23</sup> Policy Basics: The Earned Income Tax Credit. *Center on Budget and Policy Priorities*, Retrieved from <http://www.cbpp.org/cms/index.cfm?fa=view&id=2505>.

<sup>24</sup> Hotz, V., & Scholz, J. (2002). The earned income tax credit. *The University of Chicago Press*. 141-197.

<sup>25</sup> Scholz, J. (1993). The earned income tax credit: participation, compliance, and antipoverty effectiveness. *Institute for Research on Poverty, 1020(93)*, Retrieved from <http://www.irp.wisc.edu/publications/dps/pdfs/dp102093.pdf>.

<sup>26</sup> Blumenthal, M., Erard, B., & Ho, C. (2004). Participation and compliance with earned income tax credit. *Institute for Research on Poverty*, Retrieved from <http://www.econ.sinica.edu.tw/upload/file/20050726.2008090111305259.pdf>.

191 Aiding the poor, as a policy itself, results in no economic distortion. The means chosen to  
 192 offer this aid, however, can work to distort behavior. Often, the decision to grant aid by means of  
 193 income tax relief is designed to encourage lower income people to find work.<sup>27</sup> However, it  
 194 could also distort the behaviors of those workers who are just above the poverty level. The  
 195 Earned Income Credit could act as an incentive to reduce hours in order to qualify for the credit.

## **Sales and Use Tax Preferences**

### *Reduction of Tax on Food*

#### *Background*

196 As it currently stands, Virginia charges a 5% sales tax. On food, as of 2005, VA charges  
 197 only 2.5% on food.<sup>28</sup>

#### *Estimated Fiscal Impact*

198 The decision, in 2004, to reduce the sales tax on food from 3% to 2.5% will cost VA an  
 199 estimated \$250.4 million in 2010.<sup>29</sup> This does not take into consideration the cost of not charging  
 200 the full 5% that is applied to most other consumer goods.

#### *Widespread Use*

201 Currently 38 states and DC have either a reduced tax on food or exempt food fully from  
 202 the state sales tax. This does not take into account local taxes, which may often apply to food  
 203 purchases.<sup>30</sup>

#### *Policy Justification*

204 Sales tax reductions on food are designed to address the regressive nature of the sales tax.

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<sup>27</sup> Ventry, D. (1999). The collision of tax and welfare politics: the political history of the earned income tax credit, 1969-99. *The Brookings Institution*, Retrieved from [http://www.cfsinnovation.com/system/files/imported/managed\\_documents/ventry\\_1999.pdf](http://www.cfsinnovation.com/system/files/imported/managed_documents/ventry_1999.pdf).

<sup>28</sup> Tax Code of Virginia at § 58.1-611.1.

<sup>29</sup> Cassidy, M, & Okos, S. (2009). A drop in the bucket? assessing the high cost of virginia tax expenditures. *The Commonwealth Institute*.

<sup>30</sup> See Appendix B: Information from the Federation of Tax Administrators.

*Political Considerations*

205 Working to address regressivity by enhancing vertical equity will naturally provide relief  
206 to low-income citizens. Much the same as with the Earned Income Credit, this becomes a debate  
207 between offering aid via tax policy, through exempting food, or by more “welfare” policy, by  
208 increasing the availability of food assistance programs. Given the reluctance of many politicians  
209 to increase direct aid to the lower income families, exempting food from the sales tax becomes  
210 the next choice.

*Equity*

211 This reduction is designed to enhance the vertical equity issues that are inherent with a  
212 sales tax. It also violates horizontal equity because prepared food at grocery stores is exempted,  
213 whereas comparable meals purchased at restaurants are not.

*Efficacy*

This is an effective means of enhancing vertical equity. It is clearly effective because everyone has to buy food and all grocery goods are taxed at the same rate.

*Efficiency /Other Considerations*

214 The decision to discount the sales tax on food carries with it no inherent economic  
215 distortion. In fact, it is most often chosen based on the fact that food is something that people do  
216 not have an option whether or not to purchase. The other main consideration with the sales tax on  
217 food is the notion of cross-border competition. As it currently stands, 3 of 5 bordering states and  
218 the District of Columbia currently fully exempt food from the sales tax.<sup>31</sup> The concern then  
219 becomes that the policy decision as to how to tax food will have an impact on cross-border  
220 competition. Research indicates that tax policy does have a correlation with cross-border  
221 shopping. A study published in 2007 looked at county level data in West Virginia and found that

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<sup>31</sup> See Appendix H

222 a 1 percentage point increase in taxation leads to a 1.38% decrease in per capita food sales.<sup>32</sup>  
 223 These results are consistent with a 1988 study performed, also using West Virginia data, by  
 224 economists working for the Office of Tax Analysis at the Department of the Treasury.<sup>33</sup> In that  
 225 study, they pointed out that their results are also consistent with studies done in 1980 and 1986.<sup>34</sup>  
 226 Given the relevant literature, it may appear that the fear that raising the tax rate on food could  
 227 result in decreased food sales could be very real, though it is most likely an issue only in  
 228 commuter-heavy northern Virginia.

### 229 ***Exemption for Non-Prescription Drugs***

#### *Background*

230 Virginia currently exempts “(A)ny nonprescription drugs and proprietary medicines  
 231 purchased for the cure, mitigation, treatment, or prevention of disease in human beings...” from  
 232 any sales tax.<sup>35</sup>

#### *Estimated Fiscal Impact*

233 Exempting non-prescription from the 5% general sales tax will cost VA an estimated  
 234 \$21.2 million in 2010.<sup>36</sup>

#### *Widespread Use*

235 As of 2010, 12 states currently exempt non-prescription drugs, including Maryland and  
 236 DC.<sup>37</sup>

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<sup>32</sup> Tosun, M., & Skidmore, M. (2007). Cross-border shopping and the sales tax: an examination of food purchases in west virginia. *The B.E. Journal of Economic Analysis and Policy*, 7(1), Retrieved from <http://www.bepress.com/bejeap/vol7/iss1/art63>.

<sup>33</sup> Walsh, M., & Jones, J. (1988). More evidence on the "border tax" effect: the case of west virginia, 1979-84. *National Tax Journal*, 41(2), Retrieved from [http://ntj.tax.org/wwwtax/ntjrec.nsf/175d710dff186a385256a31007cb40f/676c9ab9a27b9f768525686c00686d7e/\\$FILE/v41n2261.pdf](http://ntj.tax.org/wwwtax/ntjrec.nsf/175d710dff186a385256a31007cb40f/676c9ab9a27b9f768525686c00686d7e/$FILE/v41n2261.pdf).

<sup>34</sup> See: Fisher, R. (1980). Local sales taxes: tax rate differentials, sales loss, and revenue estimation. *Public Finance Review*, 8(2). and Fox, W. (1986). Tax structure and the location of economic activity along state borders. *National Tax Journal*, 39(4).

<sup>35</sup> VA Tax Code at §58.1-609.10(14a-b).

<sup>36</sup> Cassidy, M., & Okos, S. (2009). A drop in the bucket? assessing the high cost of virginia tax expenditures. *The Commonwealth Institute*.

*Policy Justification*

237 Exemptions for non-prescription drugs most likely are designed to encourage people to  
238 partake of preventative medicine and engage in home cures as an effort to minimize the strain on  
239 the healthcare system.

*Political Considerations*

240 Given the national focus on healthcare costs in the past few years, it is uncontroversial  
241 that VA wants to do as much as possible to rein in costs. Added into this consideration are the  
242 non-prescription drug manufacturers, who are likely going to be very vocal about any attempt to  
243 change a preference that clearly benefits their industry.

*Equity*

244 Exempting non-prescription drugs preserves horizontal equity in that prescription drugs  
245 are already exempted from taxes.<sup>38</sup> This allows for medications that are available with and  
246 without a prescription to now be treated the same under the tax code.

*Efficacy*

247 Based on the elasticity<sup>39</sup> of non-prescription drugs, offering an exemption on tax is an  
248 effective way to encourage people to purchase non-prescription drugs. Whether or not these non-  
249 prescription drugs do anything to address the rising cost of healthcare is a different discussion.

*Efficiency/Other Considerations*

250 This preference is designed to enhance efficiency because without this exemption, people  
251 may be more inclined to by the prescription version. The largest concern for this preference is

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<sup>37</sup> See Appendix B: Information from the Federation of Tax Administrators

<sup>38</sup> Tax Code of Virginia at §58.1-609.10 (9).

<sup>39</sup> See Michael, Johnsen. *Top 50 OTC Brands Ranked by 2003 Dollar Sales*. CBS. May 17, 2004.

[http://findarticles.com/p/articles/mi\\_m3374/is\\_7\\_26/ai\\_n6041136/?tag=content;col1](http://findarticles.com/p/articles/mi_m3374/is_7_26/ai_n6041136/?tag=content;col1). This document lists the top 50 non-prescription drugs as of 2003. In looking at this extensive list, it can be noted that each medication is only designed to treat mild symptoms, which if not treated, would cause only mild discomfort. This implies that most non-prescription drugs sold are elastic by nature, as consumers will often be willing to tolerate mild discomfort if the price increases.

252 much the same for all sales taxes, the issue of cross-border competition. Given that both  
253 Maryland and the District of Columbia exempt non-prescription drugs, but all other border states  
254 do not, there are cross-border competition issues. When considering Northern Virginia,  
255 especially given the number of people that may live in Virginia and work in either Maryland or  
256 DC, there is the real possibility of people buying non-prescription drugs across state lines and  
257 bringing them back into Virginia. Focusing on other parts of the states, there is the possibility  
258 that people could be crossing into Virginia from those border states that fully tax over-the-  
259 counter drugs. These scenarios are somewhat plausible, given the studies done on cross-border  
260 competition and tax on food,<sup>40</sup> on goods in general,<sup>41</sup> and on cigarettes and gasoline.<sup>42</sup> However,  
261 we are not entirely comfortable extrapolating these studies to being applicable to non-  
262 prescription drugs. People are going to buy food, cigarettes, and gasoline regardless of the price.  
263 Given this inelasticity, it makes perfect sense that people would be inclined to cross state lines in  
264 order to find a better deal. Conversely, people are more likely to respond to a change in price of  
265 non-prescription drugs by simply not buying them; in this way, the demand is very elastic. Given  
266 this difference between goods being compared, it is difficult to know if the role cross-border  
267 competition plays in the sale of non-prescription drugs is sufficient enough to warrant  
268 consideration.

### *Sales Tax Holidays*

#### *Background*

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<sup>40</sup> See Discussion Above

<sup>41</sup>Luna, L. (2004). Local sales tax competition and the effect on county governments' tax rates and tax bases. *Journal of the American Taxation Association*, Retrieved from <http://www.allbusiness.com/personal-finance/individual-taxes/202940-1.html>.

<sup>42</sup> Rork, J. (2003). Coveting thy neighbors' taxation. *National Tax Journal*, 56(4), Retrieved from [http://ntj.tax.org/wwtax/ntjrec.nsf/A763851E4EDFC42185256DE10065E4B5/\\$FILE/A05.pdf](http://ntj.tax.org/wwtax/ntjrec.nsf/A763851E4EDFC42185256DE10065E4B5/$FILE/A05.pdf).

269 Virginia currently offers three sales tax holidays. For seven days in May, Virginia  
270 exempts “hurricane preparedness equipment” from the state sales tax. This holiday is set to  
271 expire in 2012.<sup>43</sup> Additionally, “school supplies, clothing, and footwear” are exempted for a  
272 three day period in June.<sup>44</sup> Finally, for four days in October, Energy Star appliances under \$2500  
273 are also tax exempt. This exemption is also set to expire in 2012.<sup>45</sup>

#### *Estimated Fiscal Impact*

274 In total, the revenue lost by allowing these three tax holidays will be \$4.6 million. Of  
275 that; \$2.8 million is from school supplies, \$1.7 million is from hurricane preparedness, and \$.1  
276 million is from Energy Star appliances.<sup>46</sup>

#### *Widespread Use*

277 Currently, 19 states use sales tax holidays of some variety. Ten use a holiday for back-to-  
278 school supplies, two for hurricane preparedness, and six for Energy Star appliance.<sup>47</sup>

#### *Policy Justification*

279 Sales tax holidays are used to encourage people to act. The design is to get people to  
280 change their behavior and to buy goods that are deemed beneficial for society. Additionally, they  
281 are used to allow lower income families the ability to buy certain goods.

#### *Political Considerations*

282 Deciding which goods qualify for a sales tax holiday is inherently a political decision.  
283 While it may be easy to see how school supplies, hurricane preparedness equipment, and energy

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<sup>43</sup> VA Tax Code at § 58.1-611.3.

<sup>44</sup> VA Tax Code at § 58.1-611.2.

<sup>45</sup> VA Tax Code at § 58.1-609.1(18).

<sup>46</sup> Cassidy, M, & Okos, S. (2009). A drop in the bucket? assessing the high cost of virginia tax expenditures. *The Commonwealth Institute*.

<sup>47</sup> See Appendix C; all information from the Federation of Tax Administrators

284 efficient appliance may be beneficial for the community as a whole, often the decision of what  
 285 goods to offer the sales tax holiday on is often politically motivated.

### *Equity*

286 Sales tax holidays enhance vertical equity, as they are designed, in part, to address  
 287 regressivity in the sales tax.

### *Efficacy*

288 Sales tax holidays are not effective at achieving either policy justification. It has been  
 289 shown that instead of encouraging economic behavior by incentivizing purchases, holidays often  
 290 merely shift the purchase in time.<sup>48</sup> This makes sense for some holidays: if you need and  
 291 appliance you are going to end up purchasing it at some point. To this point, a study from British  
 292 Columbia found that sales tax holidays on Energy Star appliances were not as effective as  
 293 rebates from utility companies in terms of incentivizing behavior.<sup>49</sup> Holidays are ineffective at  
 294 providing benefit to lower income classes because they are not specifically targeted for lower  
 295 income classes. Additionally, the full amount of the discount is often less than the full amount of  
 296 the sales tax.<sup>50</sup> And, at worst, a case study from Texas used survey information and regression  
 297 analysis at a mall in Texas and found that half of the lowest income shoppers found sales tax  
 298 holidays as unimportant.<sup>51</sup>

### *Efficiency /Other Considerations*

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<sup>48</sup> See “The Temporary Clothing Exemption” by the New York State Department of Taxation and Finance looking at the holiday on clothing and also “Sales Tax Holidays: Timing, Behavior and Tax Incidence” which looked at computer sales and found that the duration of a holiday does not matter as much as the mere existence of a holiday, as shoppers would schedule their purchases in order to coincide.

<sup>49</sup> Datta, S., & Gulati, S. (2008). Energy star incentives: are they worth it?. *Ryerson University*, Retrieved from <http://economics.ryerson.ca/cree/CREE/datta1.pdf>.

<sup>50</sup> See “Sales Tax Holiday: Timing, Behavior and Incidence” showing that at best, 70% of savings were passed on to the consumer.

<sup>51</sup> Mogab, J., & Pisani, M. (2007). Shoppers' perceptions of the state sales tax holiday: a case study from texas. *American Journal of Business*, 22(2), Retrieved from <http://www.bsu.edu/mcobwin/majb/?p=526>.

299           Given that sales tax holidays generally have minimal impact on economic behavior other  
300 than to shift it in time; we were unable to locate any further efficiency considerations or  
301 unintended consequences.

### *Taxation of E-Commerce*

#### *Background*

302           While it is often assumed that Virginia currently does not tax e-commerce transactions,  
303 this is not actually true. There is a form, CU-7, which is widely available from the Department of  
304 Taxation website and should be used to self-report e-commerce purchases.<sup>52</sup> This form has  
305 existed since 1966, when the General Assembly passed the Virginia Sales and Use Tax Act. This  
306 form does not mention e-commerce, but is to be used for any qualifying purchases made out of  
307 state.<sup>53</sup> This represents a use tax, the principle being that the tax is owed in the state within which  
308 the good will be used. The problem with this method of collecting a use tax is that it has not been  
309 updated to deal with the boom in cross-border transactions that have arisen as a result of e-  
310 commerce.

311           This means that, instead of thinking of taxation on e-commerce as an implicit tax  
312 preference, we instead need to think about it as widespread tax evasion. From a policy stance, the  
313 issue is no longer to tax or not to tax, but rather how can we better enforce the tax already in  
314 place. This presents the biggest issue for e-commerce, and will comprise the bulk of our  
315 discussion from here. Given that it is not a tax preference, it does not make sense to evaluate it  
316 on the same principles we have been using.

#### *Estimated Fiscal Impact*

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<sup>52</sup> “Policy Library.” Virginia Department of Taxation. Nov. 12 2010.  
<http://www.policylibrary.tax.virginia.gov/OTP/Policy.nsf>.

<sup>53</sup> Any purchase over \$100 from a mail-order catalog and purchases of any amount from a non-mail-order catalog company provided that the purchase went untaxed when purchased. See Appendix D

317 Not effectively taxing e-commerce will cost VA at least \$180.2 million.<sup>54</sup> Taxes can  
318 either: be charged by the business and then remitted to the appropriate authority, or they can be  
319 claimed by the consumer who sends payment to the appropriate tax authority in the amount of  
320 unpaid taxes. The estimate, generated by Professors William Fox and Donald Bruce, is based on  
321 estimated compliance rates for the various relevant types of e-commerce sales (business to  
322 business, business to consumer and consumer to consumer).<sup>55</sup>

323 The estimated compliance rate of business to business is projected to be 74.5%. The  
324 estimates for business to consumer transactions are separated into large businesses, medium  
325 businesses, and small businesses. Compliance rates for large businesses are estimated by state,  
326 with the VA estimate of 68.1%. Medium and small companies' compliance rates were estimated  
327 nationwide to be 2% and 1% respectively. Compliance rates for individual voluntarily claiming  
328 taxes are estimated to be 5%. These compliance rates are then multiplied by estimated total sales,  
329 giving us an estimate for total loss. They acknowledge that often their estimation of compliance  
330 is more generous than is likely, so the loss generated represents a lower-bound.

#### *Problems with Current Method*

331 In addition to the inherent loss of revenue, not taxing e-commerce also results in a  
332 comparative disadvantage for local small-businesses. Allowing out-of-state companies to not  
333 charge sales tax makes purchases from local entities more expensive, comparatively. It actively  
334 encourages a person to avoid local stores, which has a negative impact on the local employment  
335 rate and the local economy.

#### *Administrability*

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<sup>54</sup> Bruce, D., Fox, W., & Luna, L. (2009). State and local government sales tax revenue losses from electronic commerce. *University of Tennessee*, Retrieved from <http://cber.utk.edu/ecomm/ecom0409.pdf>.

<sup>55</sup> William Fox and Donald Bruce, of the Center for Economics and Business Research at the University of Tennessee, are considered leading experts in the field of e-commerce taxation. We are indebted to Dr. Fox for taking the time to talk to us and offer his interpretation and thoughts.

336           The largest issue with figuring out an effective way to tax e-commerce is administrability  
337 issues, for taxing either the consumer or the business. When trying to tax the consumer, you run  
338 into the inherent issue of the government being incapable of having full knowledge of purchases.  
339 Lacking full knowledge, as we have already seen, results in a low compliance rate. Trying to  
340 gain full knowledge of purchases also results in privacy concerns and the possibility of  
341 constitutional violations. Attempting to tax the businesses themselves leads to cross-border  
342 problems. Virginia has no ability to compel a company to remit sales taxes unless that company  
343 has presence within its borders.<sup>56</sup>

### *Possible Solutions*

344           One possible solution that has become popular is the so-called “nexus” law. Nexus laws  
345 have been around for years, originally finding applicability with mail-order catalog companies.<sup>57</sup>  
346 With nexus laws, having been considered in a number of different jurisdictions, an attempt has  
347 been made to find an in-state presence with which to collect tax liability.<sup>58</sup> The requirements for  
348 in-state presence is generally established by the individual state legislature, but have frequently  
349 ranged from owning property or having a satellite location (like operating a warehouse) or  
350 engaging in significant business with a local company. By engaging in any of these activities, the  
351 out-of-state company is seen as having created a “nexus” and as such opened itself up to tax  
352 liability.<sup>59</sup> These “nexus” laws usually come with a threshold of value of business that the out-of-  
353 state company must meet in order to be liable. These de minimis amounts vary by state from  
354 \$2,000 to \$10,000.

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<sup>56</sup> Lukas, Aaron. "Should Internet Sales Be Taxed?." *Cato Institute*. Cato Institute, 12 March 1999. Web. 1 Dec 2010. <[http://www.cato.org/pub\\_display.php?pub\\_id=5664](http://www.cato.org/pub_display.php?pub_id=5664)>.

<sup>57</sup> Haag, J. Michigan House of Representatives, House Fiscal Agency. (1997). *Mail order sales: is michigan getting its fair share of sales and use taxes?* Retrieved from <http://www.house.mi.gov/HFA/PDFs/mailorder.pdf>.

<sup>58</sup> See Appendix E for states who have concerned Nexus Laws

<sup>59</sup> Mazerov, M. (2005). Federal "business activity tax nexus" legislation: half of a two pronged strategy to gut state corporate income taxes. *Center on Budget and Policy Priorities*, Retrieved from <http://www.cbpp.org/files/1-26-05sfp.pdf>.

355 Another possible solution is to lean on the national government to require out-of-state  
356 companies to charge and remit the appropriate sales taxes.<sup>60</sup> Going after the businesses are  
357 undoubtedly the most efficient way of collecting taxes on e-commerce, as evidenced by the  
358 already decent compliance rate for large businesses and the low compliance rate for individuals.  
359 The Congress has the power, under the Commerce Clause, to compel large stores, like  
360 Amazon.com and Wal-Mart, to include the appropriate sales tax for each purchase on the basis  
361 of the shipping location for the order. This type of legislation has been discussed before, and  
362 likely represents the best option at effectively taxing e-commerce.<sup>61</sup>

### *Problems with Solutions*

363 While “nexus” laws and a national law represent the best possible solutions to the e-  
364 commerce tax problem, they are far from perfect. History has shown that any new tax will  
365 invariably lead to a new way to commit tax evasion. The possible repercussions could have  
366 negative impacts on businesses in the state. Additionally, there are likely to be court challenges  
367 to having tax liability loosely established. This was seen as early as 1997 in Michigan, where a  
368 mail-order catalog challenged having nexus established without physical presence.<sup>62</sup>

369 If a “nexus” law were to pass in Virginia (it has been introduced but tabled in 2010); it is  
370 entirely possible that local ties would simply be cut in order to avoid the liability. This could be  
371 in the form of closing local affiliates, or cutting ties with local businesses who service large  
372 companies. This would result in a loss of jobs and local businesses and gets us no closer to  
373 collecting lost revenue. The trouble with a national law is that it has the potential to force large

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<sup>60</sup> McLure, Jr., C.E. 2002. “Thinking Straight about the Taxation of Electronic Commerce: Tax Principles, Compliance, Problems, and Nexus.” *Tax Policy and the Economy* 16: 115-140.

<sup>61</sup> Mazerov, M. (2005). Federal “business activity tax nexus” legislation: half of a two pronged strategy to gut state corporate income taxes. *Center on Budget and Policy Priorities*, Retrieved from <http://www.cbpp.org/files/1-26-05sfp.pdf>.

<sup>62</sup> Haag, J. Michigan House of Representatives, House Fiscal Agency. (1997). *Mail order sales: is michigan getting its fair share of sales and use taxes?* Retrieved from <http://www.house.mi.gov/HFA/PDFs/mailorder.pdf>.

374 companies across the border to Mexico or Canada. Given that shipping costs are not likely to  
375 vary greatly from Washington (where Amazon is headquartered) to Vancouver, it becomes a real  
376 possibility that we lose large companies and the jobs and revenue that accompany them.

377 Future work should examine whether the benefits brought about by increased e-  
378 commerce tax receipts outweigh the potential costs in the form of lost economic development.  
379 These solutions will most likely only apply to large companies, which make up an estimated  
380 47% of e-commerce transactions and register the highest current compliance rates.<sup>63</sup> Of course,  
381 with any decision relating to tax, there will always be political considerations. Anti-tax groups  
382 and big businesses will likely organize against any further efforts to enforce taxation, which  
383 could ultimately hurt the state treasuries.<sup>64</sup>

### ***General Comments and Findings***

384 Generally speaking, the tax preferences we investigated are founded in sound tax policy,  
385 but are often politically contentious. The Land Preservation Tax Credit, however, appears to  
386 most effectively accomplish its intended purpose while transcending party politics. Additionally,  
387 the Exemption for Non-prescriptions Drugs seems to make sense as it costs little money and  
388 could potentially curb health care costs, an issue that has captured the attention of the nation. Out  
389 of all the preferences examined, these two seem to be the least political/most justifiable.

### **Virginia Border State Comparison**

390 Upon conducting our comparative analysis, it became necessary to narrow the scope to  
391 look at states that operate as competition for Virginia. With regard to the five border states  
392 (Kentucky, Maryland, North Carolina, Tennessee and West Virginia), their tax codes may serve

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<sup>63</sup>Bruce, D., Fox, W., & Luna, L. (2009). State and local government sales tax revenue losses from electronic commerce. *University of Tennessee*, Retrieved from <http://cber.utk.edu/ecomm/ecom0409.pdf>.

<sup>64</sup> For a full review of relevant literature, see Appendix F for an Annotated Bibliography for E-Commerce Taxation

393 as a repository from which recommendations for adopting, maintaining, or repealing certain tax  
394 preferences can be made.

395 States often enact legislation in response to cross-border competition, an issue which we  
396 have already thoroughly investigated. However, when focusing on border states to identify best  
397 practices and outliers, it becomes imperative to account for the inherent differences in the state  
398 and the economic profile. Nevertheless, by identifying the statutes dedicated to a certain issue,  
399 we can gain insight into the intent to distort economic behavior and also get a feel for the  
400 difference in economic sectors. The most common categories of tax preferences, which we  
401 classified as *agriculture*, *assistance to the needy* (aid to low-income or disabled individuals),  
402 *economic development*, *environment*, and *energy production*, may reflect a strategy to enhance  
403 social welfare and economic prosperity. But an important caveat is as follows- there is not  
404 necessarily a correlation between the number of statutes dedicated to a category and its cost to  
405 the government. Neither the added complexity to the tax code (i.e., administrability) nor the  
406 fiscal impact can be accurately ascertained from this number alone.

407 The following summarizes the individual income tax and sales & use tax preferences for  
408 Virginia as well as its border states.<sup>65</sup>

### ***Virginia***

409 A total of 53 tax preferences were identified for individual income tax and 30 for sales &  
410 use tax.<sup>66</sup> The breakdown of tax preferences by major category was as follows: 20 assistance to  
411 the needy, 11 environmental, 8 energy, 3 agricultural, and 2 economic. Relative to the border  
412 states, Virginia had the highest number of statutes dedicated to the needy, and, given that it had  
413 both the second highest per capita income at \$43,874 as well as GDP at roughly \$400 billion,

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<sup>65</sup> A complete listing of each state's statute can be found in Appendix G

<sup>66</sup> "Policy Library and Tax Code of Virginia." Virginia Department of Taxation. Nov. 12 2010.  
<http://www.policylibrary.tax.virginia.gov/OTP/Policy.nsf>.

414 this may reflect its financial ability to lend assistance.<sup>67 68</sup> Virginia had only 2 statutes dedicated  
415 to economic development, the lowest of the border states, and this corroborates the  
416 Commonwealth as a highly desirable location for businesses.<sup>69</sup> However, there might not always  
417 be a direct correlation between the number of tax preferences and economic priority because the  
418 widespread use and cost of the tax preferences was beyond the scope of this study.

### ***Kentucky***

419 In total, 46 tax preferences were identified for individual income tax and 28 for sales &  
420 use tax.<sup>70</sup> When compared to Virginia's tax preferences, the number of statutes they shared was  
421 20 for individual income tax and 11 for sales & use tax. The breakdown of Kentucky's tax  
422 preferences by major category was as follows: 23 economic, 15 energy, 15 environmental, 9  
423 assistance to the needy, and 5 agricultural. Given that Kentucky's individual income per capita  
424 and GDP were both the second lowest of the border states (West Virginia was the lowest),  
425 Kentucky seems to have enacted these tax preferences to create jobs and spur economic  
426 growth.<sup>71</sup> Further, Kentucky had only 9 statutes dedicated to the needy versus 20 in Virginia, so  
427 the correlation between number of tax preferences and financial resources deserves further  
428 review.

### ***Maryland***

429 We have identified 45 tax preferences for individual income tax and 32 for sales & use  
430 tax. When compared to Virginia's tax preference profile, the number of similar statutes was 16

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<sup>67</sup> *State Individual Income Tax Collections per Capita, Fiscal Year 2008*. (2010, March 24). Retrieved from <http://www.taxfoundation.org/taxdata/show/282.html>.

<sup>68</sup> *Gross Domestic Product by State*. (2010, November 18). Retrieved from <http://www.bea.gov/regional/gdpmap/>.

<sup>69</sup> "The Best States For Business – Forbes.com." Forbes.com. July 31 2008. Retrieved from [http://www.forbes.com/2008/07/30/virginia-georgia-utah-biz-cz\\_kb\\_0731beststates\\_table.html](http://www.forbes.com/2008/07/30/virginia-georgia-utah-biz-cz_kb_0731beststates_table.html)

<sup>70</sup> *Kentucky Revised Statutes*. (2010, November 16). Retrieved from <http://www.lrc.ky.gov/krs/titles.htm>.

<sup>71</sup> *Gross Domestic Product by State*. (2010, November 18). Retrieved from <http://www.bea.gov/regional/gdpmap/>.

431 for individual income tax and 13 for sales & use tax.<sup>72</sup> The breakdown of Maryland's tax  
 432 preferences by major category was as follows: 13 assistance to the needy, 13 economic, 12  
 433 energy, 11 environmental, and 3 agricultural. Similar to Virginia, Maryland had a high per capita  
 434 income rate but dedicates many statutes to low-income residents.<sup>73</sup> The policy rationale is  
 435 questionable unless they are in response to a solid financial position and/or to a specific  
 436 demographic such as senior citizens or low-income earners in select parts of the state. Lastly,  
 437 Maryland has a similar number of environmental protection and green energy tax preferences as  
 438 Virginia, which may be a product of both geographic location within the Chesapeake Bay  
 439 watershed and an economy that isn't as reliant on natural resource extraction.

### *North Carolina*

440 There were 65 tax preferences identified for individual income tax and 16 for sales & use  
 441 tax. The number of similar provisions to Virginia was 24 for individual income tax and 14 for  
 442 sales & use tax.<sup>74</sup> The breakdown for each major category was as follows: 22 economic, 18  
 443 assistance to needy, 8 energy, 7 agricultural, and 5 environmental. The number of agricultural  
 444 statutes was the highest and might make sense given its reliance on this industry. Interestingly,  
 445 individual income per capita is \$1,201, which ranks as the 11<sup>th</sup> highest in the nation, but at the  
 446 same time it had 65 individual income tax preferences.<sup>75</sup> At face value, this indicates loopholes  
 447 that might violate horizontal and vertical equality.

### *Tennessee*

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<sup>72</sup> *Code of Maryland*. (2010, October). Retrieved from

[http://www.michie.com/maryland/lpext.dll?f=templates&fn=main-h.htm&cp=.](http://www.michie.com/maryland/lpext.dll?f=templates&fn=main-h.htm&cp=)

<sup>73</sup> *Income per Capita by State, Fiscal Year 2008*. (2010, March 25). Retrieved from  
<http://www.taxfoundation.org/taxdata/show/290.html>.

<sup>74</sup> *North Carolina general statutes*. (2010, February 12). Retrieved from  
<http://www.ncga.state.nc.us/gascripts/statutes/statutestoc.pl>.

<sup>75</sup> *Income per Capita by State, Fiscal Year 2008*. (2010, March 25). Retrieved from  
<http://www.taxfoundation.org/taxdata/show/290.html>.

448           Regarding individual income tax and sales & use tax, Tennessee had the lowest and  
449 highest rankings for those categories, respectively. A single tax preference was identified for  
450 individual income tax because Tennessee does not collect personal income tax, although it does  
451 collect a capital gains tax.<sup>76</sup> In contrast, 64 sales & use tax preferences were identified, the most  
452 out of any state, followed by Virginia at 52.<sup>77</sup> It is worth noting that the state general sales tax is  
453 7%, the 2nd highest in the country, and general sales tax collection per capita at \$1,101 that  
454 ranks as the 6<sup>th</sup> highest.<sup>78</sup> Given the absence of a personal income tax, the state must compensate,  
455 however, it might not apply the sales tax in a uniform manner given 57 statutory exemptions.  
456 Indeed, Tennessee's tax preference profile is unique in that the statutes are variable and fall  
457 outside of the major categories. The breakdown of major types of the most common regional  
458 preferences was as follows: 5 energy, 5 assistance to the needy, 2 economic, 1 agricultural, and 1  
459 environmental. The relatively high number of tax preferences towards energy might reflect its  
460 role in energy production and as a conduit for electricity transmission. It is important to note that  
461 the majority of the tax preferences that don't fall into what we considered the major categories,  
462 are of such an obscure nature that they do not fall in line with any of the border states' practices  
463 and as such should not be considered as viable options for Virginia.

### ***West Virginia***

464           Twenty-five tax preferences were identified for individual income tax and 42 for sales &  
465 use tax. When compared to Virginia's tax preference profile, the number of similar statutes was  
466 18 for individual income tax and 11 for sales & use tax.<sup>79</sup> Due to this relatively small number of

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<sup>76</sup> *Department of Revenue: Individual Income Tax*. (2010, November). Retrieved from <http://tn.gov/revenue/faqs/indincome.htm#3>

<sup>77</sup> *Tennessee Code*. (2010, October ). Retrieved from [http://www.michie.com/tennessee/lpext.dll?f=templates&fn=main-h.htm&cp=.](http://www.michie.com/tennessee/lpext.dll?f=templates&fn=main-h.htm&cp=)

<sup>78</sup> *Income per Capita by State, Fiscal Year 2008*. (2010, March 25). Retrieved from <http://www.taxfoundation.org/taxdata/show/290.html>.

<sup>79</sup> *West Virginia Code*. (2010, July). Retrieved from <http://www.legis.state.wv.us/WVCODE/Code.cfm>.

467 similar statutes for sales & use, the differences might deserve further investigation for possible  
468 tax preference reform. The breakdown of tax preferences by major category was as follows: 24  
469 economic, 15 assistance to the needy, 12 energy, 11 environmental, and 1 agricultural. Given  
470 that West Virginia had the lowest gross domestic product of the border states, in addition to a  
471 relatively low per capita income; it makes sense that the majority of tax preferences are aimed  
472 towards promoting economic activity and assisting low-income residents.<sup>80</sup> As would be  
473 expected, there were a relatively large number of tax preferences devoted to energy, particularly  
474 coal.

### ***Most Common Practices***

475 Although variability exists across border state tax codes, there are a number of widely  
476 implemented statutes. For example, all five border states have exemptions for the following: fuel  
477 used for domestic consumption, prescription drugs, certain kinds of medical equipment, and  
478 special equipment for use by handicapped individuals. In addition, the majority of the border  
479 states have sales tax holidays during the back-to-school season as well as an exemption on  
480 school lunches and textbooks when provided by an institute of higher education. We previously  
481 mentioned sales tax holidays as a tax preference to further investigate because it might not  
482 significantly distort economic activity.

### **Conclusion and Recommendations**

483 We believe that any significant difference between the tax codes of Virginia and its  
484 border states could be attributed to differences in economic profiles, but they warrant further  
485 review since they might lend insight into tax reform.

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<sup>80</sup> *Gross Domestic Product by State*. (2010, November 18). Retrieved from <http://www.bea.gov/regional/gdpmap/>.

486 Many preferences in sales & use and personal income, seem to be shared among the  
487 jurisdictions. There is, however, one preference that does not find widespread use. Given that the  
488 Exemption for Non-prescription Drugs is only used by one other border state and the District of  
489 Columbia, it may potentially warrant further review, but we found it to be a moderately low-cost  
490 means of addressing a prominent issue. Further, we recommend that the Land Preservation Tax  
491 Credit continue to be revisited on a yearly to assess the need to continue the program. While this  
492 type of discussion occurs with assessment of the yearly cap, at some point it will become likely  
493 that the program will either lose its efficacy or the legislature will lose the political will to put  
494 preservation over development. All other preferences we examined seem to be politically  
495 contentious enough to be outside the scope of any policy-based review.

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# **Appendix A:**

## **Comprehensive List of Virginia's Tax Preferences**

## Virginia's Tax Preferences

Code Section	Description	Date Enacted/Amended	Bill	Sponsors/Co-Sponsors	Policy Justification
<b>Individual Income</b>					
<b>Exemptions</b>					
§58.1-321 (1)	Individuals earning less than \$11,650/year (increases to \$11,950 after Jan. 1, 2012)	1/11/2007	HB 3022	Cline- Bipartisan	To aid the poor
58.1-321(2)	Married and jointly filing with AGI less than \$23,300/year or if they are filing married but with separate returns with AGI less than \$11,650 (increases to \$23,900 after Jan. 1, 2012)	1/11/2007	HB 3022	Cline- Bipartisan	Incentivize marriage to create a more stable domestic environment
58.1-321(2B)	No personal income taxes for those in the military stationed here but not claiming residence	1/11/2007	HB 3022	Cline- Bipartisan	The Commonwealth can't administer an income tax to someone who is not a resident
58.1-322D(5)	Age deduction	2/13/2007	HB 3022/HB 5018	Cline	To reduce the tax burden on individuals over the age of 62
<b>Credits</b>					
36-55.63	Low-income housing credit	2/9/2010	SB 458	McEachin	Provides tax credits primarily to corporations and individuals placing low-income housing units in service
58.1-332	Credits for taxes paid other states	2/19/1998	HB 1120	Behm	Grants Virginia residents relief in situations in which they are taxed by both Virginia and another state on these types of income during the same taxable year. The credit is claimed on the income tax return for the same taxable year in which the income is subject to taxation by another state, even though the tax is actually paid during the succeeding taxable year when the return is filed.*
58.1-332.1	Credit for taxes paid to a foreign country on retirement income	1/14/1998	HB 52	Morgan	To reduce the tax burden on retirees
58.1-333	Tax credit for donations under the Neighborhood Assistance Act	1/15/1997	SB 920	Stosch, Barry, Earley, Gartlan, Hawkins, Houck and Howell	Encourage charitable donations
58.1-334	Tax credit for purchase of conservation tillage equipment	1/12/2005	HB 1655	Lingamfelter, Athey, Bryant, Cole, Janis, Landes and Scott, E.T	Encourage environmental awareness and protection
58.1-337	Tax credit for purchase of advanced technology pesticide and fertilizer application equipment	1/22/1996	HB 1215	Katzen, Bryant, Ingram, Kilgore, Orrock, Weatherholtz and Wilkin	Encourage environmental awareness and protection
58.1-338	Tax credit for purchase of machinery and equipment for processing recyclable materials	1/20/1994	HB 325	Davies, Mayer, Plum, Van Yahres and Watkins; Senators: Gartlan and Marye	Encourage environmental awareness and protection
58.1-339	Tax credit for rent reductions	3/10/1996	HB 1503	Diamonstein	Encourages housing for categories of people who traditionally have trouble finding housing
58.1-339.2	Historic rehabilitation tax credit (Applicable for taxable years beginning on and after January 1, 2000)	2/17/1994	HB 21	Cranwell	Incentivizes the conservation of historic properties in order to build equity in the building and to create greater appeal in the area
58.1-339.3	Agricultural best management practices tax credit	1/12/2005	HB 2289	Lingamfelter, Athey and Hugo	Best practices encourage the maximum amount of efficiency that can be gained through a process
58.1-339.4	Qualified equity and subordinated debt investment tax credit	1/10/2001	HB 2466	Bennett, May and Plum; Senator: Ticer	Incentivizes investment
58.1-339.6	Political candidate contribution tax credit	1/13/1999	SB 834	Gartlan	Incentivizes political activity which creates greater awareness of the political process
58.1-339.8	Income tax credit for low-income taxpayers.	1/24/2000	SB 492	Puller, Barry, Colgan, Howell, Lambert, Marye, Miller, Y.B., Quayle and Whipple; Delegates: Almand, Amundson, Callahan, Darner, Hall, Moran, Phillips, Plum, Thomas, Van Lanningham and Van Yahres	To aid the poor
58.1-339.10	Riparian forest buffer protection for waterways tax credit	1/9/2008	HB 1309	Morgan	Promotes conservation of the environment
58.1-370	Credit to trust beneficiary receiving accumulation distribution	1/21/1999	SB 2694	Scott, Albo, Almand, Hull, Keating, McClure, Moran, Plum, Rust and Watts; Senators: Howell, Saslaw and Woods	Encourages forward financial planning
58.1-371	Credits for taxes paid to other states- applicable mutatis mutandis to trusts and estates	1/1/1984		Could not be determined	Grants Virginia residents relief in situations in which they are taxed by both Virginia and another state on these types of income during the same taxable year. The credit is claimed on the income tax return for the same taxable year in which the income is subject to taxation by another state, even though the tax is actually paid during the succeeding taxable year when the return is filed.*
58.1-435	Low-income housing credit	2/9/2010	SB 458	McEachin	To aid the poor
58.1-438.1	Tax credit for clean-fuel vehicles and certain refueling property	1/11/1995	SB 656	Calhoun, Barry, Benedetti and Quayle; Delegates: Barlow, Giesen, Mayer and Plum	Incentivizes environmental awareness and conservation
58.1-439	Major business facility job tax credit	1/9/2008	HB 1204	Melvin and Tyler	Encourages businesses with over 50 employees to locate in Virginia
58.1-439.2	Coalfield employment enhancement tax credit	2/22/2006	HB 1043	Kilgore	Encourages investment in the Commonwealth's coal industry
58.1-439.4	Day-care facility investment tax credit	2/12/1996	HB 1222	Phillips, Bloxom, Bryant, Cox, Davies, Ingram, Katzen, Kilgore, Orrock, Parrish, Ruff, Thomas, Weatherholtz and Wilkins	Promotes the development of day care facilities in order to build a greater workforce

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Code Section	Description	Date Enacted/Amended	Bill	Sponsors/Co-Sponsors	Policy Justification
58.1-439.6	Worker retraining tax credit	2/2/1997	HB 2367	Cranwell, Abbitt, Almand, Armstrong, Barlow, Brickley, Croshaw, DeBoer, Diamonstein, Grayson, Hall, Jackson, Jones, J.C., McEachin, Melvin, Phillips, Puller, Scott, Stump and Woodrum; Senator: Edwards	Helps to prevent employers from opting for layoffs rather than retraining current employees
58.1-439.7	Tax credit for purchase of machinery and equipment for processing recyclable materials	2/19/1998	HB 554	DeBoer, Councill, Davies and Ingram; Senators: Holland and Martin	Encourages environmental awareness and protection
58.1-439.8	Alternate tax credit for purchase of machinery and equipment for processing recyclable materials	2/19/1998	HB 554	DeBoer, Councill, Davies and Ingram; Senators: Holland and Martin	Encourages environmental awareness and protection
58.1-439.10	Tax credit for purchase of waste motor oil burning equipment	1/19/2006	HB 1470	Saxman	Encourages environmental awareness and protection
58.1-439.11	Employees with disabilities tax credit	1/21/1999	HB 2648	Katzen, Albo, Callahan, Davis, Dudley, May, McClure, Moran and O'Brien; Senator: Potts	Works to equalize the cost between employing disabled and nondisabled people
58.1-439.12:01	Credit for cigarettes manufactured and exported	2/17/2004	SB 537	Stosch	Encourages the cigarette business without the detrimental impacts on Virginians
58.1-439.12:02	Biodiesel and green diesel fuels producers tax credit	1/9/2008	HB 333	McClellan	Encourages environmental awareness and protection
58.1-439.24	Donations by individuals.	2/2/2005	HB 1942	Saxman	Incentivizes charitable donations
58.1-512	Land preservation tax credits for individuals and corporations	1/29/2010	SB 661	Senator Hanger	Encourages individuals to use their land for the following purposes: agricultural and forestall use, open space, natural resource, and/or biodiversity conservation, or land, agricultural, watershed and/or historic preservation, as an unconditional donation by the landowner/taxpayer to a public or private conservation agency eligible to hold such land and interests therein for conservation or preservation *
59.1-279	Eligibility	1/27/1997	HB 2372	Behm, Barlow, Christian, Clement, Cooper, Crittenden, Cunningham and Diamonstein; Senator: Williams	N/A
59.1-280	Enterprise zone business tax credit	2/15/1996	HB 767	Rhodes, Cantor and Cunningham; Senators: Benedetti and Lambert	Promotes businesses to hire aggressively
63.1-321	Definitions	2/17/1999	HB 1866	McQuigg	N/A
63.1-322	Public policy; business firms; donations	1/15/1997	SB 920	Stosch, Barry, Earley, Gartlan, Hawkins, Houck and Howell	Encourages business firms to make donations to neighborhood organizations for the benefit of impoverished people
63.1-323	Proposals; regulations; tax credits authorized; amount for programs	1/15/1997	SB 920	Stosch, Barry, Earley, Gartlan, Hawkins, Houck and Howell	N/A
63.1-324	Tax credit; amount; limitation; carry over	1/15/1997	SB 920	Stosch, Barry, Earley, Gartlan, Hawkins, Houck and Howell	N/A
63.1-325	Donations of professional services	1/15/1997	SB 920	Stosch, Barry, Earley, Gartlan, Hawkins, Houck and Howell	Promotes charitable acts and welfare of the less fortunate
63.1-325.1	Donations of contracting services.	2/17/1999	HB 1866	McQuigg	Promotes charitable acts and welfare of the less fortunate
63.1-325.2	Donations by individuals.	2/13/2001	HB 2202	Almand	Promotes charitable acts
63.2-2000	Neighborhood Assistance Act	1/12/2005	HB 2041	Hamilton and BaCote	Designed to provide funding for municipal and tax exempt organizations by providing tax credits primarily to corporations and individuals making contributions and donating services to these entities*
23VAC10-110-220	Credit for income taxes paid to another state	1/21/1987		Regulation	Grants Virginia residents relief in situations in which they are taxed by both Virginia and another state on these types of income during the same taxable year. The credit is claimed on the income tax return for the same taxable year in which the income is subject to taxation by another state, even though the tax is actually paid during the succeeding taxable year when the return is filed.*
23VAC10-110-226	Qualified equity and subordinated debt investments tax credit	3/13/2002		Regulation	Incentivizes investment
23VAC10-110-130	No tax is imposed upon any individual whose Virginia AGI for the taxable year is less than \$3,000; nor is any tax imposed upon any individual and spouse whose combined Virginia adjusted gross income is less than \$3,000	1/1/1985		Regulation	To aid the poor
No Code Found**	Livable home tax credit	1/1/2008		Regulation	Incentivizes creating safe, affordable, and prosperous communities to live, work, and do business in Virginia. "With more individuals in need of accessible housing, the Livable Homes Tax Credit provides helps to help offset the costs of retrofitting homes so that individuals may age-in-place"- DHCD*
<b>Subtractions</b>					
23VAC10-110-142 (1)	Interest or dividends on obligations on the U.S. or VA	2/1/1987		Regulation	Incentives national investment
23VAC10-110-142 (2)	Interest or dividends from pass-through entity	2/1/1987		Regulation	Incentives national and local investment
23VAC10-110-142 (3)	Pension and retirement income	2/1/1987		Regulation	To aid retirees in order to best use their defined incomes
23VAC10-110-142 (4)	Disability income	2/1/1987		Regulation	To aid the disabled

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Code Section	Description	Date Enacted/Amended	Bill	Sponsors/Co-Sponsors	Policy Justification
23VAC10-110-142 (5)	Social Security and RR retirement benefits	2/1/1987		Regulation	To help the elderly
23VAC10-110-142 (6)	Income tax refunds	2/1/1987		Regulation	N/A
23VAC10-110-142 (7)	WIN or targeted jobs tax credit	2/1/1987		Regulation	To aid those Virginia already deemed worth helping
23VAC10-110-142 (8)	Foreign source income	2/1/1987		Regulation	Ensures Virginia only gets the money to which its entitled
23VAC10-110-142 (9)	Qualified agricultural contribution	2/1/1987		Regulation	Promotes charitable giving as well as agricultural growth
<b>Deductions</b>					
23VAC10-110-143 (1)	Itemized deductions	2/1/1987		Regulation	Allows citizens to receive the maximum deduction available
23VAC10-110-143 (2)	Standard deduction	2/1/1987		Regulation	Provides citizens a simpler way to receive their tax deductions
23VAC10-110-143 (3)	Exemptions pursuant to RIC Section 151c	2/1/1987		Regulation	N/A
23VAC10-110-143 (4)	Child and dependent care	2/1/1987		Regulation	Promotes the use of day care facilities in order to build a greater workforce and help citizens improve their financial standing
<b>Sales &amp; Use</b>					
<b>Exemptions</b>					
58.1-604.3	If property is purchased and used in another state before moving to VA, no use tax must be paid	1/1/1988		Could not be determined	Recognizes that use tax should be paid to the state in which a good is used
58.1-609.10 (1)	Artificial propane, gas, coal, or home heating oil used for domestic consumption	1/13/2010	SB 130	Stosch, Blevins, Hanger, Martin, McDougle, McWaters, Newman, Quayle, Ruff, Stuart, Vogel, Wagner and Watkins; Delegates: Bell, Richard P. and Wright	Provide relief to consumers given the inelastic nature of home heating fuel
58.1-609.10 (2)	Non-profit sales of food, tickets to events that include the provision of food	1/13/2010	SB 130	Stosch, Blevins, Hanger, Martin, McDougle, McWaters, Newman, Quayle, Ruff, Stuart, Vogel, Wagner and Watkins; Delegates: Bell, Richard P. and Wright	Further tax exempting non-profits
58.1-609.10 (3)	Tangible personal property for future use by a person for taxable lease or rental as an established business	1/13/2010	SB 130	Stosch, Blevins, Hanger, Martin, McDougle, McWaters, Newman, Quayle, Ruff, Stuart, Vogel, Wagner and Watkins; Delegates: Bell, Richard P. and Wright	To promote the creation and sustainability of business in Virginia
58.1-609.10 (4)	Delivery of tangible personal property outside the Commonwealth for use or consumption outside of the Commonwealth	1/13/2010	SB 130	Stosch, Blevins, Hanger, Martin, McDougle, McWaters, Newman, Quayle, Ruff, Stuart, Vogel, Wagner and Watkins; Delegates: Bell, Richard P. and Wright	Recognizes that use tax should be paid to the state in which a good is used
58.1-609.10 (5)	Tangible personal property purchased with food stamps or coupons	1/13/2010	SB 130	Stosch, Blevins, Hanger, Martin, McDougle, McWaters, Newman, Quayle, Ruff, Stuart, Vogel, Wagner and Watkins; Delegates: Bell, Richard P. and Wright	To aid those in the SNAP program- since the money is government provided, it would be counterproductive to allocate the money toward the purchase of food and then tax it
58.1-609.10 (6)	Tangible personal property purchased for use or consumption in the performance for maintenance or repair services at a nuclear power plant located outside the Commonwealth	1/13/2010	SB 130	Stosch, Blevins, Hanger, Martin, McDougle, McWaters, Newman, Quayle, Ruff, Stuart, Vogel, Wagner and Watkins; Delegates: Bell, Richard P. and Wright	Promotes the use of nuclear power plants outside the Commonwealth
58.1-609.10 (8)	School lunches and textbooks when provided by an institute of higher education	1/13/2010	SB 130	Stosch, Blevins, Hanger, Martin, McDougle, McWaters, Newman, Quayle, Ruff, Stuart, Vogel, Wagner and Watkins; Delegates: Bell, Richard P. and Wright	Promotes institutes of higher education to aid students who may not be able to afford a daily lunch or their required textbooks
58.1-609.10 (9)	Prescription drugs	1/13/2010	SB 130	Stosch, Blevins, Hanger, Martin, McDougle, McWaters, Newman, Quayle, Ruff, Stuart, Vogel, Wagner and Watkins; Delegates: Bell, Richard P. and Wright	Incentivizes citizens to fulfill and use prescription medication
58.1-609.10 (10)	Durable medical equipment- wheelchairs, crutches, braces, prosthetic devices, diabetic supplies, etc.	1/13/2010	SB 130	Stosch, Blevins, Hanger, Martin, McDougle, McWaters, Newman, Quayle, Ruff, Stuart, Vogel, Wagner and Watkins; Delegates: Bell, Richard P. and Wright	Promotes aid to the disabled
58.1-609.10 (11)	Drugs and supplies used in hemodialysis and peritoneal dialysis.	1/13/2010	SB 130	Stosch, Blevins, Hanger, Martin, McDougle, McWaters, Newman, Quayle, Ruff, Stuart, Vogel, Wagner and Watkins; Delegates: Bell, Richard P. and Wright	Aids those on dialysis who are already facing grand expenses due to their conditions
58.1-609.10 (12)	Special equipment installed on a motor vehicle for use by handicapped drivers	1/13/2010	SB 130	Stosch, Blevins, Hanger, Martin, McDougle, McWaters, Newman, Quayle, Ruff, Stuart, Vogel, Wagner and Watkins; Delegates: Bell, Richard P. and Wright	To provide access to transportation to those who are severely disabled

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Code Section	Description	Date Enacted/Amended	Bill	Sponsors/Co-Sponsors	Policy Justification
58.1-609.10 (13)	Special typewriters and computers for use to communicate by handicapped persons when prescribed by a licensed physician	1/13/2010	SB 130	Stosch, Blevins, Hanger, Martin, McDougle, McWaters, Newman, Quayle, Ruff, Stuart, Vogel, Wagner and Watkins; Delegates: Bell, Richard P. and Wright	To provide needed communication to those who are severely disabled
58.1-609.10 (14)	Non prescription drugs	1/13/2010	SB 130	Stosch, Blevins, Hanger, Martin, McDougle, McWaters, Newman, Quayle, Ruff, Stuart, Vogel, Wagner and Watkins; Delegates: Bell, Richard P. and Wright	Promote preventative care and to minimize reliance on physician visits. Also, given the inelasticity of non-prescription drugs, provide relief to consumers
58.1-609.10 (15)	Tangible personal property withdrawn from inventory and donated to a non-profit or to the Commonwealth	1/13/2010	SB 130	Stosch, Blevins, Hanger, Martin, McDougle, McWaters, Newman, Quayle, Ruff, Stuart, Vogel, Wagner and Watkins; Delegates: Bell, Richard P. and Wright	Promotes charitable behavior
58.1-609.10 (16)	Tangible personal property purchased by non-profit churches for use (large list of approved items in tax code)	1/13/2010	SB 130	Stosch, Blevins, Hanger, Martin, McDougle, McWaters, Newman, Quayle, Ruff, Stuart, Vogel, Wagner and Watkins; Delegates: Bell, Richard P. and Wright	To aid the business of churches and to promote their mission
58.1-609.10 (17)	Medical products and supplies that are otherwise taxable when purchased by a Medicaid recipient through a Department of Medical Assistance Services provider agreement.	1/13/2010	SB 130	Stosch, Blevins, Hanger, Martin, McDougle, McWaters, Newman, Quayle, Ruff, Stuart, Vogel, Wagner and Watkins; Delegates: Bell, Richard P. and Wright	To aid those in need of medical equipment that is often extremely costly and would otherwise only cost the state
58.1-609.10 (18)	Multi-fuel heating stove used for heating an individual purchasers residence and appliances such as EnergyStar or WaterSense for individual use	1/13/2010	SB 130	Stosch, Blevins, Hanger, Martin, McDougle, McWaters, Newman, Quayle, Ruff, Stuart, Vogel, Wagner and Watkins; Delegates: Bell, Richard P. and Wright	Promotes the use of energy effiecent appliances and heating sources
58.1-609.10 (19)	Products from a farm for personal use or when food stuffs is donated to a non-profit	1/13/2010	SB 130	Stosch, Blevins, Hanger, Martin, McDougle, McWaters, Newman, Quayle, Ruff, Stuart, Vogel, Wagner and Watkins; Delegates: Bell, Richard P. and Wright	To encourage local farming
58.1-611.2	Three day tax holiday on school supplies (no tax on school items <\$20 or clothing /footwear items <\$100)	1/11/2006	SB 60	Reynolds	To enable citizens to be properly prepared for the school year
58.1-611.3	Seven day tax holiday each year on May 25th excludes sales tax on generators (<\$1000), phone chargers, batteries (excluding auto or boat), carbon monoxide detectors, two way radios, etc. (<\$60 on all other items)	1/10/2007	SB 1167	Stolle and Norment; Delegate: Iaquinto	To enable citizens to be properly prepared for hurricanes
58.1-623	Anyone holding an exemption certificate may not pay sales tax (non-profit organizations (read 11 for further restrictions)	1/29/1999	SB 829	Colgan	Promotes the business of non-profits in order to encourage their missions
23VAC10-210-351	A commercial waterman's purchase of specific items will not be subject to the tax if directly used in the commercial fishing operation	7/1/1994		Regulation	To aid and sustain commercial watermen and their businesses
23VAC10-210-383	Property and services purchased by METRO or AMTRAK provided the purchase is made with official funds	2/1/1987		Regulation	Provides an incentive to increase public transportation
23VAC10-210-694	Sales to certain foreign diplomats	7/1/1994		Regulation	Pursuant to the provisions of the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations, no sales or use tax is applicable to sales or purchases by certain foreign diplomats or missions- promotes diplomatic relations*
23VAC10-210-3071-2	Tangible personal property used directly and exclusively in basic research or research and developmental activities in the experimental or laboratory sense	7/1/1994		Regulation	Incentivizes research and experimentation in the Commonwealth of Virginia
<b>Credits</b>					
58.1-611	Credit for taxes paid to other states or their political subdivisions	4/28/2004	HB 5018	Parrish	To stop citizens from being taxed twice for the same item
58.1-611.1	Sales tax on food	4/28/2004	HB 5018	Parrish	To help the poor, given the inelasticity of food and the regressive nature of sales tax
58.1-621	Bad debts- For any return filed under the provisions of this chapter, the dealer may credit, against the tax shown to be due on the return, the amount of sales or use tax previously returned and paid on accounts which are owed to the dealer and which have been found to be worthless within the period covered by the return.	2/4/2005	SB 1219	Stosch	To enable those in financial trouble the ability to begin anew without the need to pay tax on old debts

Sources: All data comes from the Virginia Tax Policy Library and the Virginia General Assembly Legislative Information System  
\*Indicates those preferences whose policy justifications were extracted directly from the legislation, all others were based on similar reasoning  
\*\*For more information go to: [http://www.dhcd.virginia.gov/HousingPreservationRehabilitation/Tax\\_credit\\_program.htm](http://www.dhcd.virginia.gov/HousingPreservationRehabilitation/Tax_credit_program.htm)

# **Appendix B:**

## **State Sales Tax Rates**

## State Sales Tax Rates

State	Tax Rate	Food	Non-Prescription Drugs
Alabama	4%	4%	4%
Alaska	0%	0%	0%
Arizona	6%	0%	6%
Arkansas	6%	2%	6%
California	8.25%	0%	8.25%
Colorado	2.9%	0%	2.9%
Connecticut	6%	0%	0%
Delaware	0%	0%	0%
Florida	6%	0%	0%
Georgia	4%	0%	4%
Hawaii	4%	4%	4%
Idaho	6%	6%	6%
Illinois	6.25%	1%	0%
Indiana	7%	0%	7%
Iowa	6%	0%	6%
Kansas	5.3%	5%	5.3%
Kentucky	6%	0%	6%
Louisiana	4%	0%	4%
Maine	5%	0%	5%
Maryland	6%	0%	0%
Massachusetts	6.25%	0%	6.25%
Michigan	6%	0%	6%
Minnesota	6.875%	0%	0%
Mississippi	7%	7%	7%
Missouri	4.225%	1.225%	4.225%
Montana	0%	0%	0%
Nebraska	5.5%	0%	5.5%
Nevada	6.85%	0%	6.85%
New Hampshire	0%	0%	0%
New Jersey	7%	0%	0%
New Mexico	5%	0%	5%
New York	4%	0%	0%
North Carolina	5.75%	0%	5.75%
North Dakota	5%	0%	5%
Ohio	5.5%	0%	5.5%
Oklahoma	4.5%	4.5%	4.5%
Oregon	0%	0%	0%
Pennsylvania	6%	0%	0%
Rhode Island	7%	0%	0%
South Carolina	6%	0%	6%

## State Sales Tax Rates

State	Tax Rate	Food	Non- Prescription Drugs
South Dakota	4%	4%	4%
Tennessee	7%	5.5%	7%
Texas	6.25%	0%	0%
Utah	4.7%	1.75%	4.7%
Vermont	6%	0%	0%
Virginia	5%	2.5%	0%
Washington	6.5%	0%	6.5%
West Virginia	6%	3%	6%
Wisconsin	5%	0%	5%
Wyoming	4%	0%	4%
DC	6%	0%	0%

Source: Federation of Tax Administrators

# **Appendix C:**

## **Nationwide Sales Tax Holidays**

## Nationwide Sales Tax Holidays

State	Days	Items	Cost	1st Year	2010 Dates	More information
Alabama	3	Clothing	\$100	2006	August	<a href="http://www.revenue.alabama.gov/">http://www.revenue.alabama.gov/</a>
		Computers	\$750			
		School Supplies	\$50			
		Books	\$30			
Connecticut	7	Clothing and Footwear	\$300	2001	August	<a href="http://www.ct.gov/">http://www.ct.gov/</a>
Florida	3	Clothing and Books	\$50	2010	August	<a href="http://dor.myflorida.com/">http://dor.myflorida.com/</a>
		School Supplies	\$100			
Illinois	10	Clothing, Footwear, and School Supplies	\$100	2010	August	<a href="http://www.revenue.state.il.us">http://www.revenue.state.il.us</a>
Iowa	2	Clothing	\$100	2000	August	<a href="http://www.iowaccess.org/tax/">http://www.iowaccess.org/tax/</a>
Louisiana	2	All Tangible Personal Property	\$2,500	2007	August	<a href="http://www.revenue.louisiana.gov/">http://www.revenue.louisiana.gov/</a>
Louisiana	2	Hurricane Preparedness Items	\$1,500	2008	May	<a href="http://www.revenue.louisiana.gov/">http://www.revenue.louisiana.gov/</a>
Louisiana	3	Firearms, Ammunition, and Hunting Supplies		2009	September	<a href="http://www.revenue.louisiana.gov/">http://www.revenue.louisiana.gov/</a>
Maryland	7	Clothing and Footwear	\$100	2010	August	<a href="http://www.comp.state.md.us/">http://www.comp.state.md.us/</a>
Maryland	3	Energy Star Products		2011	February	<a href="http://www.comp.state.md.us/">http://www.comp.state.md.us/</a>
Massachusetts	2	All Tangible Personal Property	\$2,500	2008	August	<a href="http://www.mass.gov/">http://www.mass.gov/</a>
Mississippi	2	Clothing and Footwear	\$100	2009	July	<a href="http://www.dor.ms.gov/">http://www.dor.ms.gov/</a>
Missouri	7	Energy Star Products	\$1,500	2009	April	<a href="http://www.dor.mo.gov/tax/">http://www.dor.mo.gov/tax/</a>
Missouri	3	Clothing	\$100	2004	August	<a href="http://www.dor.mo.gov/tax/">http://www.dor.mo.gov/tax/</a>
		Computers	\$3,500			
		School Supplies	\$50			
New Mexico	3	Clothing	\$100	2005	August	<a href="http://www.tax.newmexico.gov/">http://www.tax.newmexico.gov/</a>
		Computers	\$1,000			
		School Supplies	\$50			
North Carolina	3	Clothing	\$100	2001	August	<a href="http://www.dornc.com/">http://www.dornc.com/</a>
		School Supplies	\$100			
		Instructional Material	\$300			
		Computers	\$3,500			
		Other comp.	\$250			
		Sports Equipment	\$50			
North Carolina	3	Energy Star Products		2009	November	<a href="http://www.dornc.com/">http://www.dornc.com/</a>
Oklahoma	3	Clothing	\$100	2007	August	<a href="http://www.tax.ok.gov/">http://www.tax.ok.gov/</a>
South Carolina	3	Clothing		2000	August	<a href="http://www.sctax.org/">http://www.sctax.org/</a>
		School Supplies				
		Computers				
		Other				
South Carolina	2	Guns, Rifles, and Handguns		2008	November	<a href="http://www.sctax.org/">http://www.sctax.org/</a>
Tennessee	3	Clothing	\$100	2006	August	<a href="http://tn.gov/revenue/">http://tn.gov/revenue/</a>
		School Supplies	\$100			
		Computers	\$1,500			
Texas	3	Clothing, Backpacks, and School Supplies	\$100	1999	August	<a href="http://www.window.state.tx.us/">http://www.window.state.tx.us/</a>
Texas	3	Energy Star Products Air Conditioners	\$6,000 \$2,000	2008	May	<a href="http://www.window.state.tx.us/">http://www.window.state.tx.us/</a>
		Other Energy Star Products				
Vermont	1	Personal Purchase	\$2,000	2008	March	<a href="http://www.state.vt.us/tax/">http://www.state.vt.us/tax/</a>

## Nationwide Sales Tax Holidays

State	Days	Items	Cost	1st Year	2010 Dates	More information
Virginia	7	Hurricane Preparedness Items Generators	\$60 \$1,000	2008	May	<a href="http://www.tax.virginia.gov/">http://www.tax.virginia.gov/</a>
Virginia	3	Clothing School Supplies	\$100 \$20	2006	August	<a href="http://www.tax.virginia.gov/">http://www.tax.virginia.gov/</a>
Virginia	4	Energy Star Products	\$2,500	2006	October	<a href="http://www.tax.virginia.gov/">http://www.tax.virginia.gov/</a>
West Virginia*	61	Energy Star Products	\$5,000	2008	September- November	<a href="http://www.wvtax.gov/">http://www.wvtax.gov/</a>

Source: Federation of Tax Administrators

\*West Virginia enacted this tax holiday for three years and 2010 marks the final year.

# **Appendix D:**

**Virginia Form CU-7: Consumer Use Tax Return**

# Virginia Consumer's Use Tax Return for Individuals, Form CU-7

**What Is Virginia's Consumer's Use Tax?:** This tax is the "other half" of the Virginia Sales and Use Tax Act passed by the 1966 Virginia General Assembly. When you purchase goods, other than magazines or newspaper subscriptions, from a business that does not add the Virginia sales and use tax to your bill or you purchase goods tax-free while outside Virginia, you may be liable for the tax and required to file Form CU-7 to report and pay the tax. This tax is 5% of what you paid for the item ("cost price") except for food purchased for home consumption. "Cost price" does not include separately stated shipping or delivery charges but it does include a "shipping and handling" charge if listed as a combined item on the sales invoice.

**Who Should File This Form?:** If the total amount of purchases was from out-of-state mail order catalog(s) **only**, and \$100 or less for the entire year, you do not have to pay the use tax. If the purchases were from out-of-state mail order catalog(s) and exceed \$100, or the purchases were of any amount from sources other than mail order catalogs, then you must report these purchases and pay consumer's use tax on the **TOTAL** amount of *all untaxed* purchases from all sources made *during the calendar year*. Nonprescription drugs and proprietary medicines purchased for the cure, mitigation, treatment, or prevention of disease in human beings are exempt from consumer use tax.

If you meet the above criteria, you must file an annual consumer's use tax return, Form CU-7. **This form is for use by individuals only.** Businesses, including partnerships and sole proprietorships, must report such purchases on Form ST-7 or Form ST-9, whichever is appropriate.

**Filing Alternative:** You can report and pay this tax on Schedule ADJ with Form 760, or Schedule NPY with Form 760PY.

**When And Where To File:** If filing based on the calendar year, file your return as soon as possible after January 1, but not later than May 1. If you are filing on a basis other than a calendar year, you must file your return by the 15th day of the 4th month after the close of your taxable year. Penalty and interest will apply if the return is filed late. Pay the balance due as computed on Form CU-7 by the due date. Payment must be attached to the form when filed.

Make your check or money order payable to the Virginia Department of Taxation.

**Mail Form CU-7 To: Department of Taxation, P.O. Box 26626, Richmond, VA 23261-6626. (Do NOT file Form CU-7 in the same envelope with your individual income tax return and do NOT file it with your local Commissioner of the Revenue, Director of Finance or Director of Tax Administration.)**

**Where To Get Help:** If you have any questions, call 804-367-8037 or write to Department of Taxation, P.O. Box 1115, Richmond, Virginia 23218-1115. Tenemos servicios disponible en Español.

**Where To Get Forms:** Obtain forms from the Department of Taxation, Forms Request Unit, 804-440-2541. Also you can obtain most Virginia tax forms at [www.tax.virginia.gov](http://www.tax.virginia.gov).

## Computing the Consumer's Use Tax

Use the work sheet on the back of this page to list purchases, compute the taxes, and keep a computational record.

On the Form CU-7, below:

- Line 1a.** From Work Sheet Line D, enter the total COST PRICE for non-food purchases on which you were not charged sales tax.
- Line 1b.** From Work Sheet Line I, enter the total COST PRICE for food purchased for home consumption on which you were not charged sales tax.
- Line 2a.** From Work Sheet Line E, enter the TAX amount for non-food purchases.
- Line 2b.** From Work Sheet Line J, enter the TAX amount for food purchases.
- Line 3. Total Tax:** Add Lines 2a and 2b.
- Line 4. Penalty:** No penalty is due if this return is filed with payment by the due date. If a return is not filed or the tax is not paid by the due date, the penalty is 6% of the amount on line 3 for each month or fraction of a month that the return and/or payment are /is late. The minimum penalty is \$10. The maximum penalty is 30% of the amount on line 3.

- Line 5. Interest:** No interest is due if payment is made by the due date. If payment is made after the due date, interest is computed on the tax due on line 3 at the rate established in Section 6621 of the Internal Revenue Code, plus 2%. The correct interest rate can be accessed on the website at [www.tax.virginia.gov](http://www.tax.virginia.gov). For additional assistance in obtaining the correct interest rate factor on which to calculate the interest, contact the **Virginia Department of Taxation at 804-367-8037.**

- Line 6. Total Due:** Add lines 3, 4 and 5 and enter the total. Attach your check or money order for this amount to Form CU-7 when filing. See "When And Where To File" for additional information.

Make check or money order payable to: **Va. Department of Taxation**  
 Payments returned by the bank will be subject to a returned payment fee in addition to any other penalties that may be incurred.

Detach at dotted line below. Do not send entire page.

office use only
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**FORM CU-7** For Assistance, call 804-367-8037.  
 Doc ID 107

**DO NOT** mail your consumer's use tax return in the same envelope as your income tax return.

### Virginia Consumer's Use Tax Return for Individuals

Please do not staple.

Residence is in  City or  County of: \_\_\_\_\_

000000000000000000 1070000 000000

Taxable Year: Beginning Date \_\_\_\_\_ Ending Date \_\_\_\_\_

Your SSN	Your Last Name	First Name	MI
Spouse's SSN	Spouse's Last Name	First Name	MI
Address (Number and Street)			
City		State	ZIP

I declare that, to the best of my knowledge, this return (including any accompanying schedules and statements) is a true and complete return.

Signature \_\_\_\_\_ Date \_\_\_\_\_ Telephone Number \_\_\_\_\_

- 1a. Non-Food Goods Total Costs \_\_\_\_\_
- 1b. Food Goods Total Costs \_\_\_\_\_
- 2a. Non-Food Goods Tax \_\_\_\_\_
- 2b. Food Goods Tax \_\_\_\_\_
- 3. Total Tax Add lines 2a & 2b \_\_\_\_\_
- 4. Penalty (See Instructions) \_\_\_\_\_
- 5. Interest (See Instructions) \_\_\_\_\_
- 6. Total Due (Add lines 3, 4 & 5) \_\_\_\_\_

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**Work Sheet for Computing Virginia Consumer's Use Tax for Individuals (CU-7)**

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- **Keep this with your other important tax records.**
- Use a separate sheet, if needed.
- If your receipt shows a "handling" charge or "shipping and handling" charge *but does not separately state the amount for shipping*, include this charge in the cost price. If your receipt shows a separate shipping or delivery charge, do not include this charge in the cost price.
- This tax is 5% of what you paid for the item ("cost price") except for food purchased for home consumption.
- The rate for food purchased for home consumption is 2.5%.

Tax Year: From \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_

<b>Non-Food Items</b>	<b>Date of Purchase</b>	<b>Cost Price</b>	
A. _____	_____	_____	
B. _____	_____	_____	
C. _____	_____	_____	
D. Total Cost of Non-Food Items Purchased		_____	Enter on Line 1a, Form CU-7.
E. Tax on Non-Food Items Purchased (Line D times .05)		_____	Enter on Line 2a, Form CU-7.

<b>Food Items Purchased</b>	<b>Date of Purchase</b>	<b>Cost Price</b>	
F. _____	_____	_____	
G. _____	_____	_____	
H. _____	_____	_____	
I. Total Cost of Food Items Purchased		_____	Enter on Line 1b, Form CU-7.
J. Tax on Food Items Purchased (Line I times .025)		_____	Enter on Line 2b, Form CU-7.

# **Appendix E:**

**Nexus Law by State**

## Nexus Law by State

Status	State	Bill No.	Year	<i>de minimis</i> (\$)
<b>Enacted</b>	Colorado	HB 10-1193	2010	NA
	New York	-	2008	10,000
	North Carolina	HB 558/SB 487	2009	10,000
	Rhode Island <sup>1</sup>	SB 6164	2009	5,000
<b>Considered</b>	Connecticut	HB 5481	2009	2,000
	Illinois	SB 3353	2009	10,000
	Maryland	SB 824	2009	10,000
	Minnesota	SB 282/HB 401	2009	10,000
	Tennessee	HB 1947/SB 1741	2009	2,000
<b>Introduced</b>	Iowa	HB 2510	2010	10,000
	New Mexico	HB 50	2010	10,000
	Vermont	HB 661	2010	10,000
	Virginia <sup>2</sup>	HB 660	2010	10,000
<b>Rejected</b>	Mississippi	SB 2927	2010	-
<b>Vetoed</b>	California <sup>3</sup>	AB 2078	2009	NA
	Hawaii	HB 1405	2009	10,000

Source: Tax Foundation

Notes:

<sup>1</sup>Repeal Introduced (2010)

<sup>4</sup>Tabled

<sup>3</sup>Reintroduced

# **Appendix F:**

## **E-Commerce Literature Review**

## Annotated Bibliography/E-Commerce Lit Review

**Bruce, D.; Fox, W.F.; Luna, L. 2009. State and Local Government Tax Revenue Losses from Electronic Commerce. Unpublished manuscript, University of Tennessee, Knoxville, TN.**

Bruce et al. (2009) quantified the fiscal impact of e-commerce on 46 states. Given the rapid increase in e-commerce with sales over the last decade growing from \$995.0 billion in 1999 to an estimated \$2,385 billion by 2012, the impact on state and local revenue is likely to be profound. Using a conservative econometric model, they quantified a baseline forecast and an optimistic forecast for e-commerce revenue loss. Interestingly, their findings suggest that business-to-business sales account for approximately 93% of total e-commerce, versus 7% from business-to-consumers. In the baseline scenario, they calculated that the total national revenue loss would grow to \$11.4 billion by 2012 and, over the period of 2006-2012, lead to an aggregate loss of \$52 billion. Their more aggressive model estimated revenue loss to reach \$12.65 billion by 2012, with an aggregate loss of \$56.3 billion. In addition, they found the impact on states to vary due to the size of each state's economy and characteristics of each state's sales tax structure. For Virginia, their baseline scenario estimated a 2007 loss of \$131.6 million and an increase to \$207 million by 2012. Also, they estimated the revenue losses of e-commerce as a percentage of sales and use tax collections to be 2.38% in 2007, with an increase to 3.74% by 2012.

**Maguire, S., & Noto, N. Congressional Research Service, Government and Finance Division. (2008). *Internet Taxation: Issues and Legislation* Retrieved from <http://www.club.cc.cmu.edu/pub/wikileaks/wikileaks-crs-reports/RL33261.pdf>.**

This report discusses the various e-commerce proposals that were to be considered by the 110<sup>th</sup> Congress. Included in this was a bill that would grant authority to any state who signed the Streamlined Sales and Use Tax Agreement to require remote sellers to collect and remit sales tax on cross-border sales. Additionally, there was a bill to create common standards of business activity required in order to establish a nexus for taxation.

**Zodrow, G. (2007). *Should Electronic Commerce Receive Preferential Tax Treatment? The James A. Baker III Institute for Public Policy*, Retrieved from [http://www.bakerinstitute.org/publications/2007\\_electroniccommerce\\_zodrow.pdf](http://www.bakerinstitute.org/publications/2007_electroniccommerce_zodrow.pdf).**

George Zodrow analyzed the optimal tax rate for e-commerce by accounting for efficiency and equity concerns and taxation and administrative costs. He concludes that exempting e-commerce from tax would not be optimal. In fact, he finds no evidence to believe that anything would be more beneficial than the traditional uniform tax on electronic and other commerce.

**Mazerov, M. *Federal "Business Activity Tax Nexus" Legislation: Half of a Two-Pronged Strategy to Gut State Corporate Income Taxes*. Center on Budget and Policy Priorities. November 30, 2005.**

This paper discusses H.R. 1956 as proposed in 2005 that would make it much more difficult for states to require many out-of-state corporations to pay any income tax. This legislation was intended to substantially raise the nexus threshold for corporate income taxes and other business activity taxes (BAT). Mazerov offers a developed discussion of both those who support and those who oppose BAT nexus legislation. In the end, widespread enactment of a single sales factor formula at the state level and the enactment of federal BAT nexus legislation are two

complementary prongs of an attack on the corporate income tax aimed at eviscerating this much-despised source of state revenue. Mazerov also offers reasonable alternatives to H.R. 1956. For instance, Congress could implement a proposed model nexus threshold carefully crafted by the Multistate Tax Commission, which would base the existence of nexus on relatively-objective measures of the amount of a corporation's property, payroll, or sales present in a state. Mazerov concludes that while these initiatives are strong, Congress would never enact such legislation at this time as it would undermine a critical source of revenue for states and directly oppose its efforts to shut down tax shelters and close loopholes.

**McClure, Jr., C. E. (2002). Sales and use taxes on electronic commerce: legal, economic, administrative, and political issues. *Urban Lawyer*, 34.**

This paper discusses the basic idea of taxing e-commerce, and provides a robust discussion of both the potential solutions as well as their drawbacks. McClure notes four "missing issues" when it comes to taxing e-commerce: (1) sales to business, including sales of capital goods, should not be taxed; (2) taxes should apply equally to all sales to consumers; (3) taxes should apply equally to sales made by local merchants and remote vendors and (4) taxation should be as simple as possible, consistent with other objectives. In order to satisfy these requirements, McClure decides that exempting all sales to business, taxing all sales to consumers, adopting substantial uniformity in laws and administration, and providing a *de minimis* safe harbor would make it more reasonable to require remote vendors to collect use taxes. A discussion of political consideration soon follows as well as a thorough investigation of the Streamline Sales Tax Project (SSTP). McClure concludes that noteworthy aspects of the SSTP include the uniform definitions, the requirement for a common state and local tax base, the elimination of caps and thresholds, the single state rate, the uniform bad debt provision, the uniform sourcing rules, and the repeal of the "good faith" requirement on exempt sales. The difficulty, however, remains that the undertaking to implement such a system would be grand and no one is willing to begin the switch. In total McClure calls for a Uniform Sales and Use Tax Law, within which the states could exercise the autonomy envisaged in the SSTP.

**McClure, Jr., C.E. (2002). Thinking Straight about the Taxation of Electronic Commerce: Tax Principles, Compliance, Problems, and Nexus. *Tax Policy and the Economy* 16.**

McClure (2002) developed theoretical guidelines for e-commerce regulation. Specifically, an economically efficient sales tax system is possible in which there is a simple tax structure that taxes sales to consumers but exempts business-to-business transactions. The model is centered on the tenet that uniformity would harmonize statutes, regulations, procedures, as well as mitigate compliance costs. However, is it impossible to extend the tax base because of variation in the tax codes between levels of government and corporate entities. The article ends on the notation that Congress might be compelled to mandate a solution to national taxation.

**Goolsbee, A. (2001). The Implications of Electronic Commerce for Fiscal Policy (and Vice Versa). *The Journal of Economic Perspectives* 15.**

Goolsbee (2001) examined the relationship between e-commerce (as of 2001) and fiscal policy. He contends that people are sensitive to local tax rates when deciding whether to buy over the Internet. He demonstrated that in places where sales taxes are higher, there is an increase in the likelihood of online shopping. Regarding externalities, he believes that even if the size and/or direction of externalities were known, that policy prescriptions would still be contentious. For

example, a positive externality might justify policy interventions of opposing nature. At the time the article was published, he recommended for e-commerce not to be taxed until it was pervasive and when a plausible political compromise is established.

**Hartwell, R., & Luellen, S. (2000).** “Should Consumers Pay Sales and Use Taxes on Internet Purchases?” *The Thomas Jefferson Institute for Public Policy*,50(3), Retrieved from [http://www.thomasjeffersoninst.org/pdf/articles/dialoge\\_on\\_va\\_policy.pdf](http://www.thomasjeffersoninst.org/pdf/articles/dialoge_on_va_policy.pdf).

In this Dialogue on Virginia Policy, Robert Hartwell and Scott Luellen take opposite sides on the e-commerce taxation debate. Hartwell argues that internet sales should be taxed for competition reasons. He also notes sliding state revenues. Scott Luellen lays out five arguments against internet taxation including: e-taxes will hamper progress, having a negative impact on the economy; e-taxes will make the US less competitive; e-commerce tends to be business-to-business, which are usually tax exempt; e-taxes are a slippery slope that could lead to far greater taxation than ever anticipated; and that e-tax supporters misrepresent themselves as fighting for fairness when they are really just big box stores who lack an internet strategy.

**Reed, L. (2000).** “Internet Purchases: To Tax or not To Tax, Here are the Questions.” *Mackinac Center for Public Policy*, Retrieved from <http://www.mackinac.org/archives/2000/s2000-01.pdf>.

Lawrence Reed responds to the proposals in Michigan to tax e-commerce by laying out his recommendations for tax policy. He recommends Congress: extend the IFTA’s moratorium on “multiple and discriminatory” Internet taxation; adopt a clear and constitutional taxation standard; require that any sales tax be origin-based as opposed to destination-based; and look for ways to make the internet more accessible and affordable.

**Powell, D.C. (2000).** “Taxation and U.S. Intergovernmental Relations: From *Quill* to Present.” *Publius* 30.

Powell (2000) provided an overview of remote sales taxation for the period between *Quill v. North Dakota* (1992) and the year 2000. In *Quill*, the Supreme Court ruled that an out-of-state mail order entity was not responsible for remitting sales taxes since they did not have a physical presence in North Dakota, referred to as “nexus.” Since then, that ruling has largely been upheld, even though various organizations, businesses, and politicians have questioned it. Powell also reviewed the recommendations of a Congressional appointed commission that failed to reach a consensus. Some of the issues cited by the commission included viewpoints regarding protecting the privacy of consumers, administration, and the potential for e-commerce to violate the Commerce Clause.

**Swindle, Orson.** “Taxation on E-Commerce.” *Browning Symposium. University of Montana. 15 Oct. 1999.*

During his speech to the University of Montana, former Federal Trade Commissioner Orson Swindle lays out the complexities of taxing e-commerce which revolve mainly around addressing the different tax policies in very jurisdictions and the inherent administrability problems which would result.

**Lukas, Aaron. "Should Internet Sales Be Taxed?." *Cato Institute*. Cato Institute, 12 March 1999. Web. 1 Dec 2010. [http://www.cato.org/pub\\_display.php?pub\\_id=5664](http://www.cato.org/pub_display.php?pub_id=5664).**

Aaron Lukas of the Cato Institute reviews the arguments for stepped up enforcement of taxation on e-commerce. First, he argues that while neutrality (the notion that tax policy should treat goods the same regardless of the medium used for purchase) is important, it is equally as important to have a no-tax option in case taxes get too high. Second, Lukas attacks the common belief that e-commerce puts local businesses at a competitive disadvantage. Lukas believes that the answer is not in taxing e-commerce but instead lowering the tax rates in state. Finally, he attacks the argument that states will ultimately lose out on more and more money by pointing out the (then) large budget surpluses in most states.

**Fox, W., & Murray, M. (1997). *The Sales Tax and Electronic Commerce: So What's New?* *National Tax Journal*, 50(3), Retrieved from [http://ntj.tax.org/wwtax/ntjrec.nsf/C8ED7CF34F0BA1E885256863004A594B/\\$FILE/v50n3573.pdf](http://ntj.tax.org/wwtax/ntjrec.nsf/C8ED7CF34F0BA1E885256863004A594B/$FILE/v50n3573.pdf).**

In this early work by Fox and Murray, they discuss pragmatic ways of addressing the question of taxation of electronic commerce. They believe that taxation on e-commerce should be consistent with the tax structure in place at the time. Additionally, advocate a more inclusive way of taxing final sales and less taxation on business to business purchases. Finally, they advocated Congress passing a nexus law, to allow states to seek lost revenue.

# Appendix G:

## Border States Tax Code

<u>Category Legend</u>	
Ag	Agriculture
As	Assistance to Low Income/Disabled
Econ	Economic Development
E	Energy
Env	Environment

## Kentucky

Code Section	Description	Category
<b>Individual Income</b>		
<b>Exemptions</b>		
141.0401	Limited Liability entity tax exemptions	
141.325	Withholding exemptions	
<b>Credits</b>		
141.02(3)a-1	Various income tax credits	
141.0405	Coal incentive tax credit for electric power generation and alternative fuel or gasification facilities -- Procedure for claiming credit -- Priority of application	E
141.062	Premiums paid for health insurance to be treated as income tax credit	As
141.065	Credit allowor for hiring person classified as unemployed	Econ,As
141.066	Nonrefundable "low income" tax credit	As
141.067	Household and dependent care service credit	As
141.069	Credit allowor for tuition at eligible educational institution	
141.07	Credits allowed individuals for tax paid to other states	
141.345	Refund or credit in case of overpayment	
141.35	Credit of amount withheld against tax imposed by KRS 141.020 for same taxable year	
141.381	Nonrefundable tax credit for entities participating in the Metropolitan College	
141.382	Refundable or transferable tax credit for qualified rehabilitation expenses for certified historic structure	
141.383	Refundable tax credit for motion picture or entertainment production expenses	Econ
141.384	Nonrefundable tax credit for small businesses	Econ
141.385	Nonrefundable tax credit for railroad improvement	Econ
141.386	Nonrefundable tax credit for railroad expansion or upgrade to accommodate transportation of fossil energy resources or biomass resources	Econ,E
141.388	Nonrefundable tax credit for nonfirst-time buyers of new homes	Econ,E
141.39	Tax credit for recycling or composting equipment	Env
141.395	Tax credit for construction of research facilities	Econ

## Kentucky

Code Section	Description	Category
141.4	Tax credit for company approved for economic development project under KRS 154.28-010 to 154.28-100	Econ
141.401	Tax credit and income tax for companies with economic development projects in qualified zones	Econ
141.403	Tax credit for company approved under KRS 154.26-010 to 154.26-100	Econ
141.405	Tax credit for company approved for occupational or skills upgrade training program under KRS 154.12-2084 to 154.12-2089 -- Administrative regulations	Econ
141.412	Tax credit for qualified farming operation	Ag,Econ
141.418	Nonrefundable credit for voluntary environmental remediation	Env
141.423	Nonrefundable credit for biodiesel producer, biodiesel blender, or renewable diesel producer	Econ,E,Env
141.424	Biodiesel credit distribution for pass-through entities	Econ,E,Env
141.4242	Nonrefundable credit for producers of ethanol	Ag,Econ,E,Env
141.4244	Nonrefundable credit for producers of cellulosic ethanol	Ag,Econ,E,Env
141.4246	Ethanol or cellulosic ethanol credit distribution for pass-through entities	Ag,Econ,E,Env
141.4248	Transfer of unused ethanol or cellulosic ethanol tax credit	Ag,E,Env
141.428	Kentucky Clean Coal Incentive Act	Econ,E,Env
141.434	New Markets Development Program tax credit	
141.436	Tax credit for installation of energy efficiency products for residential and commercial property	E,Env
141.437	Tax credit for construction of ENERGY STAR home or sale of ENERGY STAR manufactured home	E,Env
141.438	Endow Kentucky tax credit (charitable organizations)	As
<b>Deductions</b>		
141.016	Allocation of income and business deductions between husband and wife	
141.0201	Artistic charitable contributions deduction for individuals	
141.0202	Deduction of leasehold interest of property contributed as living quarters for homeless persons	As
141.081	Optional standard deduction for individuals	

## Kentucky

Code Section	Description	Category
<b>Refunds</b>		
141.44	Designation of income tax refund to child victims' trust fund	
141.444	Designation of income tax refund to veterans' program trust fund	
141.446	Designation of income tax refund to breast cancer research and education trust fund	
141.455	Designation of income tax refund to nongame species protection and natural areas acquisition programs	Env
<b>Sales &amp; Use</b>		
<b>Exemptions</b>		
139.27	Resale certificate or certificate of exemption	
139.365	Exemption from collection duty for out-of-state commercial printers and mailers	
139.47	Exempt transactions	Econ,E
139.472	Exemption for certain medical items	
139.48	Property exempt	
139.482	Certain historical sites exemptions	
139.27	Resale certificate or certificate of exemption	
139.365	Exemption from collection duty for out-of-state commercial printers and mailers	
139.47	Exempt transactions	As
139.472	Exemption for certain medical items	As
139.48	Property exempt	
139.482	Certain historical sites exemptions	
139.27	Resale certificate or certificate of exemption	E
139.365	Exemption from collection duty for out-of-state commercial printers and mailers	Ag
139.47	Exempt transactions	E,Env
139.472	Exemption for certain medical items	
139.48	Property exempt	
139.482	Certain historical sites exemptions	
<b>Credits</b>		
139.505	Refundable credit of portion of sales tax paid on interstate business communications service	

## Kentucky

<b>Code Section</b>	<b>Description</b>	<b>Category</b>
139.51	Use tax credit for sales tax paid in another state under reciprocal arrangement -- Tax credit for taxes paid in another state on communications service	
139.538	Encouragement of motion picture industry tax credit	Econ
<b>Incentives</b>		
139.517	Sales tax incentive for alternative fuel, gasification, and renewable energy facilities	E,Env
139.535	Sales and use tax incentive for approved companies on qualifying purchases for economic development projects	Econ
139.536	Tourism attraction project credit against sales tax	Econ
<b>Rebates</b>		
139.533	Sales tax rebate on sales of admissions and tangible personal property at governmental facility	
<b>Refunds</b>		
139.515	Sales tax refund program for qualifying signature projects	
139.518	Sales or use tax refund on energy-efficiency products used at manufacturing plant	Econ,Env
139.534	Tax refund for purchases and operation of certain communications and computer systems costing \$100 million or more	Econ

## Maryland

Code Section	Description	Category
<b>Individual Income</b>		
<b>Exemptions</b>		
10-104	Exemptions with subsections	
10-211	Individuals other than fiduciaries	
10-212	Fiduciaries	
10-213	Honorable Louis L. Goldstein Volunteer Police, Fire, Rescue, and Emergency Medical Services Personnel Subtraction Modification Program	
10-910	Exemption certificate; allowable certificates	
<b>Credits</b>		
10-701.1	An individual or a corporation may claim a credit against the State income tax for a taxable year in the amount of tax paid by a pass-through entity under § 10-102.1	Econ
10-702	Credits given for wages paid in an enterprise zone	Econ
10-703	For tax paid by resident to another state	
10-703.2	Gains from installment sale of property in another state	
10-704	For earned income	As
10-704.1	For purchase of Maryland-mined coal	Econ,E
10-704.4	Credit for wages paid pursuant to Title 6, Subtitle 3 of the Economic Development Article	Econ
10-704.5	For certified rehabilitation	
10-704.6	For neighborhood and community assistance	As
10-704.7	For wages, child care, and transportation for qualified employees with disabilities	As
10-704.8	For new job creating businesses	Econ,As
10-704.9	For commercial fertilizer costs	Ag
10-704.10	For wages paid to qualified ex-felon employee	As
10-705	Evidence of entitled requirement	
10-706	Effect of credit on county and State income tax computation	
10-707	For residential real estate property tax	
10-708	For a telecommunications business	
10-709	Low income tax credit	As
10-710	For long-term care insurance	
10-711	For wages paid under student work-based learning program	As
10-713	Multijurisdictional electric companies	E

## Maryland

Code Section	Description	Category
10-714	One Maryland Economic Development Tax Credits	Econ
10-715	For providing employee commuter benefits	As
10-716	For child care or dependent care	As
10-717	For classroom teacher advanced education	
10-718	Eligible long-term care premiums	
10-719	Costs of solar water heating property or photovoltaic property	E,Env
10-720	Electricity produced from qualified energy resources	E,Env
10-721	Qualified research and development expenses	Econ,Env
10-722	Green Buildings	E,Env
10-723	Preservation and conservation easements	Env
10-724	For aquaculture oyster floats	Env
10-725	Biotechnology investment incentive tax credit	Econ,Env
10-726	Cellulosic ethanol technology	Ag,E,Env
10-727	Bio-heating oil	
10-728	Job creation and recovery tax credit	Ag,As

### Deductions

10-217	Standard deduction	
10-218	Itemized deductions - In general	
10-219	Itemized deductions - Limitation for nonresident	
10-220	Itemized deductions - Limitation for part-year resident	

### Subtractions

10-207	Subtractions from federal adjusted gross income - In general	
10-208	Subtractions from federal adjusted gross income - State adjustments.	
10-209	Subtractions from federal adjusted gross income - Elderly or disabled individuals.	As
10-210.1	Depreciation deduction; net operating loss deduction	
10-307	Subtractions from federal taxable income	

### Sales & Use

#### Exemptions

11-201	Agricultural purposes and products	Ag
11-201.1	Sale of tangible personal property through bulk vending machine (\$0.75 or less)	
11-202	Cylinder demurrage charge	

## Maryland

Code Section	Description	Category
11-204	Exempt charitable or nonprofit sales	As
11-205	Flags (US, Maryland, and POW/MIA flags)	
11-206	Food	As
11-207	Fuel for residential use	E
11-208	Interstate or foreign commerce or use in another state	
11-209	Casual and isolated sale; distribution or transfer of tangible personal property	
11-210	Machinery and equipment	Econ
11-211	Medicine and medical supplies; medical records; health and physical aids; hygenic aids	
11-212	Mining purpose	E
11-213	Mobile homes	As
11-214	Nonresident property	
11-214.1	Precious metal bullion and coins	
11-215	Printing use and publications	
11-216	Property for use in another state	
11-217	Research and development purpose	
11-218	Seafood harvesting purpose	
11-219	Services	
11-220	State or political subdivision	
11-221	Taxation by other law	
11-222	Testing equipment contracted by the Dept of Defense	
11-223	Transporation services	
11-224	Water delivered to buyer through pipes or conduits	
11-225	Computer programs	
11-226	Appliances meeting certain efficiency requirements (Tax free period from third Sat in Feb to the following Mon)	E,Env
11-227	Property or service used directly in film production activity	Econ
11-228	Tax-free period for back-to-school shopping (7 day period from second Sun in August to the following Sat)	Econ,As
11-229	Sale of electricity, fuel, etc. for snow producing	E
11-230	Sale of geothermal equipment oo solar energy equipment	E,Env
11-231	Lodging at corporate training center	Econ

## North Carolina

Code Section	Description	Category
<b>Individual Income</b>		
<b>Exemptions</b>		
105-130.11	Conditional and other exemptions	
105-164.5	Employee exemptions allowable- certificates	
<b>Credits</b>		
105-122.1	Credit for additional annual report fees paid by limited liability companies subject to franchise tax	
105-129.8	Credit for creating jobs	Econ,As
105-129.9	Credit for investing in machinery and equipment	Econ
105-129.9A	Technology commercialization credit	Econ
105-129.11	Credit for worker training	Econ
105-129.12	Credit for investing in central office or aircraft facilities	Econ
105-129.12A	Credit for substantial investment in other property (Enterprise tier one or two)	Econ
105-129.13	Credit for development zone projects	Econ
105-129.16A	Credit for investing in renewable energy property	Econ,E,Env
105-129.16G	Work opportunity tax credit	Econ,As
105-129.16H	Credit to donating funds to acquire renewable energy property	E,Env
105-129.17A	Tax election credit	
105-129.27	Credit for investing in large or major recycling facility	Econ,Env
105-129.35	Credit for rehabilitating income-producing historic structure	Econ
105-129.36	Credit for rehabilitating non-income producing historic structure	
105-129.41	Credit for low-income housing awarded to a federal allocation before Jan 1, 2003	As
105-129.42	Credit for low-income housing awarded to a federal allocation after Jan 1, 2003	As
105-129.55	Credit for North Carolina research and development	Econ
105-129.64	Credit for major computer manufacturing facilities	Econ
105-129.71	Credit for income-producing rehabilitated mill property	Econ
105.129.72	Credit for non-income-producing rehabilitated mill property	
105-129.87	Credit for creating jobs	Econ,As
105-129.88	Credit for investing in business property	Econ
105-129.89	Credit for investment in real property	Econ

## North Carolina

Code Section	Description	Category
105-129.96	Tax credit for constructing a railroad intermodal facility	Econ
105-130.22	Tax credit for construction of dwelling units for handicapped persons	As
105-130.25	Credit against corporate income tax for construction of cogenerating power plants	Econ,E
105.130-34	Credit for certain real property donations (i.e., 501(c)3)	As
105-130.36	Credit for conservation tillage equipment	Ag
105-130.37	Credit for gleaned crop	Ag
105-130.39	Credit for certain telephone subscriber line charges	
105-130.41	Credit for North Carolina State Ports Authority wharfage, handling, and throughput charges	
105-130.43	Credit for savings and load supervisory fees	
105.130.44	Credit for construction of poultry composting facility	Ag
105-130.45	Credit for manufacturing cigarettes for exportation	Econ
105-130.46	Credit for manufacturing cigarettes for exportation while increasing employment and utilizing State Ports	Econ
105-130.47	Credit for qualifying expenses of a production company	Econ
105-130.48	Credit for recycling oyster shells (repeal as of Jan 1, 2011)	Env
105.130.6A	Adjustment for expenses related to dividends (Bank holding companies and electric power holding companies)	E
105-151	Tax credits for income taxes paid to other states by individuals	
105-151.1	Credit for construction of dwelling units for handicapped persons	As
105-151.11	Credit for child care and certain employment-related expenses	As
105-151.12	Credit for certain real property donations (Note: repeat in Code)	
105-151.13	Credit for conservation tillage equipment (Note: repeat in Code)	
105.151.14	Credit for gleaned crop (Note: repeat in Code)	
105.151.18	Credit for the disabled	As
105.151.20	Credit or parital refund for tax paid on certain federal retirement benefits	
105-151.21	Credit for property taxes paid on farm machinery	Ag

## North Carolina

Code Section	Description	Category
105.151.22	Credit for North Carolina State Ports Authority wharfage, handling, and throughput charges (Note: repeat in Code)	
105-151.24	Credit for children	As
105.151.25	Credit for construction of poultry composting facility (Note: repeat in Code)	
105.151.26	Credit for charitable contributions by nonitemizers (expires Jan 1, 2011)	As
105-151.28	Credit for premiums paid on long-term care insurance	As
105-151.29	Credit for qualifying expenses of a production company (Note: repeat in Code)	
105-151.30	Credit for recycling oyster shells (Note: repeat in Code)	
105-151.31	Earned income tax credit (Sunset. Repealed beginning Jan 1, 2013)	As
105-151.32	Credit for adoption expenses (Sunset. Repealed beginning Jan 1, 2013)	
105-160.3	Tax credits to estate or trust	
105.160.4	Tax credits for income taxes paid to other states by estates and trusts	
105.163.011	Tax credits allowed for purchase of equity securities or subordinated debt of a qualified business.	
<b>Deductions</b>		
105.130.5	Adjustments to federal taxable income in determining State net income	
105-130.7A	Royalty income reporting option	
105-134.6	Adjustments to taxable income	
105-134.7	Transitional adjustments	
<b>Sales &amp; Use</b>		
<b>Credits/Deductions/Exemptions/Refunds</b>		
105-164-4D	Bundled Transactions	
105-164.6	Complementary use tax to State Credit	
105-164-13	Retail Sales and Use Tax Exemptions and Exclusions-Agriculture, Logging, Medical, Motor Fuel, Printed Materials, Transactions Group, Unclassified	Ag,E,As

## North Carolina

Code Section	Description	Category
105-164-13B	Food exempt from tax	As
105-164-13C	Sales and use tax holiday (first Fri in August to following Sun)	As
105-164-13D	Energy Star Sales and use tax holiday (first Fri in August to following Sun)	E,Env,As
105-164.14	Certain refunds authorized	
105-164.21A	Deduction for municipalities that sell electric power	E
105-164.28A	Exemption certificates to intended parties	
105-164.29A	State agency sales tax exemption	
105-187.6	Exemptions from highway use tax	
105-187.7	Credits	
105-187.8	Refund for return of purchased motor vehicle	
105-187.17	Exemptions	
105-187.23	Exemptions and refunds	
105-187.41	Tax imposed on piped natural gas exemption to certain parties	E

## Tennessee

Code Section	Description	Category
<b>Individual Income</b>		
<b>Exemptions</b>		
67-2-104	Income tax provisions	
<b>Sales &amp; Use</b>		
<b>Exemptions</b>		
67-6-301	Agricultural products	Ag
67-6-302	Aircraft parts and supplies - Property leased by airport authority	
67-6-303	Armed forces - Automobiles	
67-6-304	Blood and plasma	
67-6-305	Demonstration or display property	
67-6-306	Divorce - Transfer of automobile	
67-6-307	Energy or resource recovery facilities	E
67-6-308	Federal government	
67-6-309	Rental from films, transcriptions and recordings	
67-6-310	Gun shows - Sales by nonprofit organizations	
67-6-311	Construction machinery transferred between parent and subsidiary corporations	
67-6-312	Transfer of preliminary artwork by advertising agency - Sale or use of final artwork and advertising materials subject to tax	
67-6-313	Interstate commerce - Repair services - Tax credit	
67-6-314	Medical equipment and devices for handicapped persons	As
67-6-316	Optometrists, opticians, and ophthalmologists	
67-6-319	Pharmaceutical samples - Free drugs and materials	
67-6-320	Prescription drugs	
67-6-321	Railroad stock - Vessels and barges - Railroad rolling stock	
67-6-322	Religious, educational, and charitable institutions - Energy resource recovery facilities	E
67-6-324	Replacement parts or goods	
67-6-325	Telephone cooperatives	
67-6-326	Vessels	
67-6-327	Vessels and barges - Repairs	
67-6-328	Watershed districts	
67-6-329	Miscellaneous exemptions	
67-6-330	Amusement tax exemptions	

## Tennessee

Code Section	Description	Category
67-6-331	Transfers by dealers in personal property of motor vehicles used by common carriers	
67-6-332	Utilities, electric cooperatives and electric membership corporations	E
67-6-333	Taxidermists	
67-6-332	Energy for residential use	E
67-6-335	Dentists	
67-6-336	Used factory-manufactured structures	
67-6-337	Sales paid for with food stamps	As
67-6-338	Sales paid for with vouchers from special supplemental food program for women, infants and children	As
67-6-339	Products sold to or used by structural metal fabricator	
67-6-340.	Railroad track materials and locomotive radiators	
67-6-342	Telecommunications services	
67-6-343	Motor vehicles - Exemption from sales tax	
67-6-344	Cooperative direct mail advertising	
67-6-345	Boats, motorboats and other vessels - Exemption from sales tax	
67-6-346	Helicopters and aircraft used by nonprofit groups for medical transport - Exemption from sales and use taxes	
67-6-348	Used clothing - Exemption from sales tax	As
67-6-351	Legend drugs used by veterinarians	
67-6-352	Pharmacies and home health care providers	
67-6-353	Adaptive equipment for motor vehicles provided for disabled veterans	
67-6-354	Design professionals' sketches, drawings and models	
67-6-356	Sales and use tax exemption for telecommunications services used by call centers	
67-6-384	Spallation neutron source facility	
67-6-385	Sales to common carriers for use outside state - Certificate - Records - Exception	
67-6-386	Sale of aviation fuel to commercial air carriers — Diesel fuel sold to common carrier - Certificate - Records	E
67-6-387	Computer software for personal use	

## Tennessee

Code Section	Description	Category
67-6-388	Exemption from sales and use tax on leased motor vehicles for insurance proceeds paid on damage settlements	
67-6-389	Exemption for private communications services	
67-6-390	Exemption for sales of telecommunications services between affiliates	
67-6-392	Exemption for detailing and repair services on motor vehicles held for resale	
67-6-393	Exemption for sales tax holiday (first Fri of August to following Sun)	Econ,As
67-6-395	Exemption for use of computer software developed, fabricated, and repaired by an affiliated company	
<b>Credits</b>		
67-6-235	Credits for qualified disaster restoration projects	
67-6-313	Interstate commerce — Repair services — Tax credit	
67-6-341	Credit for sales tax due on motor vehicle incentive payments	
67-6-346	Pollution control credit	Env
67-6-355	Credit for fire protection sprinkler contractors	
67-6-357	Credit on retail tobacco sales tax	
67-6-394	Credit for sales tax due on a transaction accommodation fee included in a sale or lease	

## West Virginia

Code Section	Description	Category
<b>Individual Income</b>		
<b>Exemptions</b>		
11-21-12.	West Virginia Adjusted Gross Income of Resident Individuals, including exemptions	
11-21-12b	Combat pay exempt	
11-21-16	West Virginia Personal exemptions of resident individuals, including general, husband and wife, surviving spouse, and certain dependents exemptions	
11-21-18	West Virginia taxable income of resident estate or trust	
<b>Credits</b>		
11-21.8	Credits against tax, including the business and occupation tax credit and severance tax credit	Econ,E
11-21-8A	Credit for qualified rehabilitated buildings investment	
11-21-8g	Credit for qualified rehabilitated residential	
11-21-9a	Pledge of credit or collateral by endorser, guarantor or accommodator not to constitute investment in borrower	Econ
11-21.10	Low income exclusion (Earned income tax credit)	As
11-21-10a	Credit for nonfamily adoption	
11-21.20	Credit for income tax of another state	
11-21.21	Senior citizens' tax credit for property tax paid on first \$10,000 of taxable assessed value of a homestead in this state; tax credit for property tax paid on the first \$20,000 of value for property tax years after 12/31/06	As
11-21.22	Low income family tax credit	As
11-21-23.	Refundable credit for real property taxes paid in excess of four percent of income	As
11-21.24	Senior citizen property tax relief credit	As
11-21.40	Credit for income tax of state residence	
11-21.42	Military Incentive tax credit	
11-21.43	Credit for consumers sales and service tax and use tax paid	
11-21.61	Extension of time for performing certain acts due to Desert Shield Service- includes credit	
11-21.73	Credit for tax withheld	
<b>Deductions</b>		
11-21.12c	Deduction for long-term care insurance	

## West Virginia

Code Section	Description	Category
11-21.13	West Virginia deduction of resident individual	
11-21.14	West Virginia standard deduction of resident individual	
12-21.15	West Virginia itemized deduction of a resident individual	
11-21.17	Resident partners with deductions	
<b>Sales &amp; Use</b>		
<b>Exemptions</b>		
11-6B	Homestead Property tax exemption	As
11-12.3	Business registration certificate required; tax levied; exemption from registration; exemption from tax	E
11-13.2o	Business of generating or producing or selling electricity exemptions	
11.14A.8	Motor carrier road tax exemption	
11-14.5	Gasoline and special fuel excise tax exemptions	E
11-14C.9	Motor fuel excise tax exemptions	E
11-15.	Consumer sales and service tax exemptions	
11-15-A3	Use tax exemptions	
11.23.	Business franchise tax exemptions	Econ
<b>Credits</b>		
11-6D	Alternative Fuel Motor Vehicles tax credit	E,Env
11-12A.25	Credit for consumers sales and service tax and use tax paid	As
11-12B.3	Tax credit for minimum severance tax on coal	Econ,E
11-13A.10	Tax credit for business investment and jobs expansion; industrial expansion and revitalization; eligible research and development projects; coal loading facilities	Econ,E
11-13B.10A	Tax credit for business investment and jobs expansion; credit for eligible research and development projects; credit for coal-loading facilities; credit for reducing telephone rates for certain low-income residential customers	Econ,E,As
11-13C.4b	Credit allowable for certified projects	Econ,As
11-13D.3	Amount of credit allowed for industrial expansion or revitalization; for eligible research and development projects; and for qualifying housing development projects	Econ

## West Virginia

Code Section	Description	Category
11-13D.3c	Amount of credit allowed and application of credit for qualified investment in a management services facility	Econ
11-13D.3d	Amount of credit allowed and application of credit for qualified investment in a new industrial facility producing coal-based liquids used to produce synthetic motor fuel or synthetic special fuel	EconE
11-13E.3	Business and occupation tax credit for coal loading facilities	Econ,E
11-13F.3	Business and occupation tax credit for reducing electric and natural gas utility rates for low-income residential customers	E,Env,As
11-13G.3	Tax credit for reducing telephone utility rates for certain low-income residential customers	As
11-13J.4	Neighborhood Investment Program tax credit	As
11-13K.3	Tax credit for agricultural equipment	Ag,As
11-13L.4	The Natural Gas Industry Jobs Retention Act	Econ,As
11-13M.4	Tax credit for new value-added world manufacturing operations	Econ
11-13N.4	Tax credit for new steel manufacturing operations after July 1, 1998	
11-13O.4	Tax credit for new aluminum or polymer manufacturing operation after July 1, 1998	Econ
11-13P.4	Tax credit for medical liability insurance premiums	
11-13Q.4	Economic opportunity tax credit	Econ
11-13Q.5	Credit allowed for locating corporate headquarters in this state	Econ
11-13Q.6	Credit allowable for certified projects (Note: repeat in Code)	
11-13R.5	Strategic Research and Development Tax Credit (Note: repeat in Code)	
11-13S.4	Manufacturing investment tax credit	Econ
11-13T.4	Tax credit for combined claims made for medical malpractice premiums and medical liability insurance premiums paid	
11-13U.4	High-growth business investment tax credit	Econ
11-13W.1	Apprenticeship training tax credit in construction trades	Econ
11-13X.5	West Virginia Film Industry Investment Act	Econ,As

## West Virginia

<b>Code Section</b>	<b>Description</b>	<b>Category</b>
11-13Y.4	The West Virginia Manufacturing Property Tax Adjustment Act	Econ
11-13Z.1	Residential solar energy tax credit	E,Env
11-13AA.5	Tax credit for use of a patent in a manufacturing process or product in this state that was developed in this state	Econ
11-14A.9	Motor carrier road tax credit	
11-15A-10a	Credit for sales tax liability paid to another state	
11-26-13.	Health care provider Medicaid tax credit	As
<b>Incentives</b>		
11-13AA.4	Tax incentive for developing patents in this state	Econ

## Virginia

Code Section	Description	Category
<b>Individual Income</b>		
<b>Exemptions</b>		
58.1-321 (1)	Individuals earning less than \$11,650/year (increases to \$11,950 after Jan. 1, 2012)	As
58.1-321(2)	Married and jointly filing with AGI less than \$23,300/year or if they are filing married but with separate returns with AGI less than \$11,650 (increases to	As
58.1-321(2B)	No personal income taxes for those in the military stationed here but not claiming residence	
58.1-322D(5)	Age deduction	
<b>Credits</b>		
58.1-332	Credits for taxes paid other states	
58.1-332.1	Credit for taxes paid to a foreign country on retirement income	
58.1-334	Tax credit for purchase of conservation tillage equipment	Ag,Env
58.1-337	Tax credit for purchase of advanced technology pesticide and fertilizer application equipment	
58.1-338	Tax credit for purchase of machinery and equipment for processing recyclable materials	Env
58.1-339	Tax credit for rent reductions	
58.1-339.2	Historic rehabilitation tax credit (Applicable for taxable years beginning on and after January 1, 2000)	
58.1-339.3	Agricultural best management practices tax credit	Ag,Env
58.1-339.4	Qualified equity and subordinated debt investment tax credit	
58.1-339.6	Political candidate contribution tax credit	
58.1-339.8	Income tax credit for low-income taxpayers	As
58.1-339.10	Riparian forest buffer protection for waterways tax credit	Env
58.1-370	Credit to trust beneficiary receiving accumulation distribution	
58.1-435	Low-income housing credit	As
58.1-438.1	Tax credit for clean-fuel vehicles and certain refueling property	E,Env
58.1-439	Major business facility job tax credit	Econ,As
58.1-439.2	Coalfield employment enhancement tax credit	E
58.1-439.4	Day-care facility investment tax credit	

## Virginia

Code Section	Description	Category
58.1-439.6	Worker retraining tax credit	Econ
58.1-439.7	Tax credit for purchase of machinery and equipment for processing recyclable materials	Env
58.1-439.8	Alternate tax credit for purchase of machinery and equipment for processing recyclable materials	Env
58.1-439.10	Tax credit for purchase of waste motor oil burning equipment	E
58.1-439.11	Employees with disabilities tax credit	As
58.1-439.12:01	Credit for cigarettes manufactured and exported	
58.1-439.12:02	Biodiesel and green diesel fuels producers tax credit	E,Env
58.1-439.24	Donations by individuals.	As
58.1-512	Land preservation tax credits for individuals and corporations	Env
59.1-280	Enterprise zone business tax credit	Econ
63.1-322	Public policy; business firms; donations	As
63.1-323	Proposals; regulations; tax credits authorized; amount for programs	
63.1-324	Tax credit; amount; limitation; carry over	
63.1-325	Donations of professional services	As
63.1-325.1	Donations of contracting services.	As
23VAC10-110-226	Qualified equity and subordinated debt investments tax credit	
23VAC10-110-130	No tax is imposed upon any individual whose Virginia AGI for the taxable year is less than \$3,000; nor is any tax imposed upon any individual and spouse whose combined Virginia adjusted gross income is less than \$3,000	As
No Code Found	Livable home tax credit	As
<b>Subtractions</b>		
23VAC10-110-142 (1)	Interest or dividends on obligations on the U.S. or VA	
23VAC10-110-142 (2)	Interest or dividends from pass-through entity	
23VAC10-110-142 (3)	Pension and retirement income	
23VAC10-110-142 (4)	Disability income	As
23VAC10-110-142 (5)	Social Security and RR retirement benefits	
23VAC10-110-142 (6)	Income tax refunds	
23VAC10-110-142 (7)	WIN or targeted jobs tax credit	
23VAC10-110-142 (8)	Foreign source income	
23VAC10-110-142 (9)	Qualified agricultural contribution	Ag

## Virginia

Code Section	Description	Category
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### Deductions

23VAC10-110-143 (1)	Itemized deductions (dependents and such)
23VAC10-110-143 (2)	Standard deduction
23VAC10-110-143 (3)	Exemptions pursuant to RIC Section 151c
23VAC10-110-143 (4)	Child and dependent care

### Sales & Use

#### Exemptions

58.1-604.3	If property is purchased and used in another state before moving to VA, no use tax must be paid	
58.1-609.10 (1)	Artificial propane, gas, coal, or home heating oil used for domestic consumption	E
58.1-609.10 (2)	Non-profit sales of food, tickets to events that include the provision of food	
58.1-609.10 (3)	Tangible personal property for future use by a person for taxable lease or rental as an established business	
58.1-609.10 (4)	Delivery of tangible personal property outside the commonwealth for use or consumption outside of the Commonwealth	
58.1-609.10 (5)	Tangible personal property purchased with food stamps or coupons	As
58.1-609.10 (6)	Tangible personal property purchased for use or consumption in the performance for maintenance or repair services at a nuclear power plant located outside the Commonwealth	
58.1-609.10 (8)	School lunches and textbooks when provided by an institute of higher education	As
58.1-609.10 (9)	Prescription drugs	
58.1-609.10 (10)	Durable medical equipment- wheelchairs, crutches, braces, prosthetic devices, diabetic supplies, etc.	
58.1-609.10 (11)	Drugs and supplies used in hemodialysis and peritoneal dialysis.	
58.1-609.10 (12)	Special equipment installed on a motor vehicle for use by handicapped drivers	As
58.1-609.10 (13)	Special typewriters and computers for use to communicate by handicapped persons when prescribed by a licensed physician	As
58.1-609.10 (14)	Non prescription drugs	

## Virginia

Code Section	Description	Category
58.1-609.10 (15)	Tangible personal property withdrawn from inventory and donated to a non-profit or to the Commonwealth	
58.1-609.10 (16)	Tangible personal property purchased by non-profit churches for use (large list of approved items in tax code)	
58.1-609.10 (17)	Medical products and supplies that are otherwise taxable when purchased by a Medicaid recipient through a Department of Medical Assistance Services provider agreement.	As
58.1-609.10 (18)	Multifuel heating stove used for heating an individual purchasers residence	E
58.1-609.10 (19)	Products from a farm for personal use or when food stuffs is donated to a non-profit	Ag
58.1-611.2	Three day tax holiday on school supplies (no tax on school items <\$20 or clothing /footwear items <\$100)	Econ
58.1-611.3	Seven day tax holiday each year on May 25th excludes sales tax on generators (<\$1000), phone chargers, batteries (excluding auto or boat), carbon monoxide detectors, two way radios, etc. (<\$60 on all other items)	Econ
58.1-623	Anyone holding an exemption certificate may not pay sales tax (non-profit organizations (read 11 for further restrictions)	As
23VAC10-210-351	A commercial waterman's purchase of the following items will not be subject to the tax if directly used in the commercial fishing operation	
23VAC10-210-383	Property and services purchased by METRO or AMTRAK provided the purchase is made with official funds	
23VAC10-210-694	Sales to certain foreign diplomats	
23VAC10-210-3071-2	Tangible personal property used directly and exclusively in basic research or research and developmental activities in the experimental or laboratory sense	Econ
<b>Credits</b>		
58.1-611	Credit for taxes paid to other states or their political subdivisions	
58.1-611.1	Sales tax on food	As

## Virginia

Code Section	Description	Category
58.1-621	Bad debts- For any return filed under the provisions of this chapter, the dealer may credit, against the tax shown to be due on the return, the amount of sales or use tax previously returned and paid on accounts which are owed to the dealer and which have been found to be worthless within the period covered by the return.	

# **Appendix H:**

## **Border State Comparison**

## Cross Border Comparison

Virginia Code	Description	KY	MD	NC	TN	WV
<b>Individual Income</b>						
<b>Exemptions</b>						
58.1-321 (1)	Individuals earning less than \$11,650/year (increases to \$11,950 after Jan. 1, 2012)			x	x	x
58.1-321(2)	Married and jointly filing with AGI less than \$23,300/year or if they are filing married but with separate returns with AGI less than \$11,650 (increases to \$23,900 after Jan. 1, 2012)			x	x	x
58.1-321(2B)	No personal income taxes for those in the military stationed here but not claiming residence	x				x
58.1-322D(5)	Age deduction					
<b>Credits</b>						
58.1-332	Credits for taxes paid other states	x	x	x		x
58.1-332.1	Credit for taxes paid to a foreign country on retirement income					
58.1-334	Tax credit for purchase of conservation tillage equipment			x		
58.1-337	Tax credit for purchase of advanced technology pesticide and fertilizer application equipment					
58.1-338	Tax credit for purchase of machinery and equipment for processing recyclable materials	x		x		
58.1-339	Tax credit for rent reductions					
58.1-339.2	Historic rehabilitation tax credit (Applicable for taxable years beginning on and after January 1, 2000)	x	x	x		x
58.1-339.3	Agricultural best management practices tax credit					
58.1-339.4	Qualified equity and subordinated debt investment tax credit					
58.1-339.6	Political candidate contribution tax credit					
58.1-339.8	Income tax credit for low-income taxpayers	x	x	x		x
58.1-339.10	Riparian forest buffer protection for waterways tax credit					
58.1-370	Credit to trust beneficiary receiving accumulation distribution					
58.1-435	Low-income housing credit	x	x	x		x

## Cross Border Comparison

Virginia Code	Description	KY	MD	NC	TN	WV
58.1-438.1	Tax credit for clean-fuel vehicles and certain refueling property	x				
58.1-439	Major business facility job tax credit		x			x
58.1-439.2	Coalfield employment enhancement tax credit					
58.1-439.4	Day-care facility investment tax credit					
58.1-439.6	Worker retraining tax credit	x				
58.1-439.7	Tax credit for purchase of machinery and equipment for processing recyclable materials	x		x		
58.1-439.8	Alternate tax credit for purchase of machinery and equipment for processing recyclable materials	x				
58.1-439.10	Tax credit for purchase of waste motor oil burning equipment					
58.1-439.11	Employees with disabilities tax credit		x	x		
58.1-439.12:01	Credit for cigarettes manufactured and exported			x		
58.1-439.12:02	Biodiesel and green diesel fuels producers tax credit	x	x			
58.1-439.24	Donations by individuals.	x	x	x		x
58.1-512	Land preservation tax credits for individuals and corporations	x	x			
59.1-280	Enterprise zone business tax credit	x	x	x		
63.1-322	Public policy; business firms; donations	x		x		x
63.1-323	Proposals; regulations; tax credits authorized; amount for programs	x				
63.1-324	Tax credit; amount; limitation; carry over	x		x		x
63.1-325	Donations of professional services					x
63.1-325.1	Donations of contracting services.					x
23VAC10-110-226	Qualified equity and subordinated debt investments tax credit					
23VAC10-110-130	No tax is imposed upon any individual whose Virginia AGI for the taxable year is less than \$3,000; nor is any tax imposed upon any individual and spouse whose combined Virginia adjusted gross income is less than \$3,000					
No Code Found	Livable home tax credit					

### Subtractions

## Cross Border Comparison

Virginia Code	Description	KY	MD	NC	TN	WV
23VAC10-110-142 (1)	Interest or dividends on obligations on the U.S. or VA			x		x
23VAC10-110-142 (2)	Interest or dividends from pass-through entity					x
23VAC10-110-142 (3)	Pension and retirement income		x	x		x
23VAC10-110-142 (4)	Disability income		x	x		
23VAC10-110-142 (5)	Social Security and RR retirement benefits		x	x		
23VAC10-110-142 (6)	Income tax refunds			x		
23VAC10-110-142 (7)	WIN or targeted jobs tax credit					
23VAC10-110-142 (8)	Foreign source income			x		
23VAC10-110-142 (9)	Qualified agricultural contribution					
<b>Deductions</b>						
23VAC10-110-143 (1)	Itemized deductions (dependents and such)	x	x	x		x
23VAC10-110-143 (2)	Standard deduction	x	x	x		x
23VAC10-110-143 (3)	Exemptions pursuant to RIC Section 151c					
23VAC10-110-143 (4)	Child and dependent care	x	x	x		
<b>Sales &amp; Use</b>						
<b>Exemptions</b>						
58.1-604.3	If property is purchased and used in another state before moving to VA, no use tax must be		x			
58.1-609.10 (1)	Artificial propane, gas, coal, or home heating oil used for domestic consumption	x	x	x	x	x
58.1-609.10 (2)	Non-profit sales of food, tickets to events that include the provision of food	x	x			
58.1-609.10 (3)	Tangible personal property for future use by a person for taxable lease or rental as an established business					
58.1-609.10 (4)	Delivery of tangible personal property outside the commonwealth for use or consumption outside of the Commonwealth	x	x	x	x	
58.1-609.10 (5)	Tangible personal property purchased with food stamps or coupons	x		x	x	x
58.1-609.10 (6)	Tangible personal property purchased for use or consumption in the performance for maintenance or repair services at a nuclear power plant located outside the Commonwealth					
58.1-609.10 (8)	School lunches and textbooks when provided by an institute of higher education	x		x	x	x

## Cross Border Comparison

Virginia Code	Description	KY	MD	NC	TN	WV
58.1-609.10 (9)	Prescription drugs	x	x	x	x	x
58.1-609.10 (10)	Durable medical equipment- wheelchairs, crutches, braces, prosthetic devices, diabetic supplies, etc.	x	x	x	x	x
58.1-609.10 (11)	Drugs and supplies used in hemodialysis and peritoneal dialysis.		x		x	
58.1-609.10 (12)	Special equipment installed on a motor vehicle for use by handicapped drivers	x	x	x	x	x
58.1-609.10 (13)	Special typewriters and computers for use to communicate by handicapped persons when prescribed by a licensed physician	x	x	x	x	x
58.1-609.10 (14)	Non prescription drugs		x			
58.1-609.10 (15)	Tangible personal property withdrawn from inventory and donated to a non-profit or to the Commonwealth	x		x	x	x
58.1-609.10 (16)	Tangible personal property purchased by non-profit churches for use (large list of approved items in tax code)			x	x	x
58.1-609.10 (17)	Medical products and supplies that are otherwise taxable when purchased by a Medicaid recipient through a Department of Medical Assistance Services provider					
58.1-609.10 (18)	Multifuel heating stove used for heating an individual purchasers residence		x			
58.1-609.10 (19)	Products from a farm for personal use or when food stuffs is donated to a non-profit					
58.1-611.2	Three day tax holiday on school supplies (no tax on school items <\$20 or clothing /footwear items <\$100)		x	x	x	
58.1-611.3	Seven day tax holiday each year on May 25th excludes sales tax on generators (<\$1000), phone chargers, batteries (excluding auto or boat), carbon monoxide detectors, two way radios, etc. (<\$60 on all other items)					
58.1-623	Anyone holding an exemption certificate may not pay sales tax (non-profit organizations (read 11 for further restrictions)			x		x

## Cross Border Comparison

Virginia Code	Description	KY	MD	NC	TN	WV
23VAC10-210-351	A commercial waterman's purchase of the following items will not be subject to the tax if directly used in the commercial fishing		x	x		
23VAC10-210-383	Property and services purchased by METRO or AMTRAK provided the purchase is made with official funds					
23VAC10-210-694	Sales to certain foreign diplomats					
23VAC10-210-3071-2	Tangible personal property used directly and exclusively in basic research or research and developmental activities in the experimental or laboratory sense					x
<b>Credits</b>						
58.1-611	Credit for taxes paid to other states or their political subdivisions			x		
58.1-611.1	Sales tax on food	x	x			
58.1-621	Bad debts- For any return filed under the provisions of this chapter, the dealer may credit, against the tax shown to be due on the return, the amount of sales or use tax previously returned and paid on accounts which are owed to the dealer and which have been found to be worthless within the period covered by the return.					x