

Unified Regulatory Plan of the Department of Taxation for State Fiscal Year 2025

Prepared on June 30, 2024

Description of Agency

The Department of Taxation, acting through the Tax Commissioner, is vested with general supervision over the administration of the state tax laws pursuant to Subtitle I of Title 58.1 of the *Code of Virginia*. For purposes of enforcement of the tax laws, the Department may impose requirements relating directly or indirectly to the assessment and collection of taxes. The Department is authorized to issue regulations relating to the interpretation and enforcement of the laws of the Commonwealth governing taxes it administers. The Department operates under the supervision of the Secretary of Finance.

Title of Proposed Regulatory Action or Guidance Document	
Fast Track Action to Reduce Regulatory Requirements in Accordance with Governor Youngkin's Executive Order 19 (June 30, 2022)	
Brief Overview	
Governor Youngkin's Executive Order 19 (June 30, 2022) requires executive branch agencies to reduce the number of regulatory requirements not mandated by federal or state statute by at least 25 percent. In Fiscal Year 2025, the Department plans to file a Fast Track regulatory action with the Registrar to amend its regulations to meet its interim goal of reducing regulatory requirements by at least 10% by January 5, 2024. To accomplish this goal, the Department is working on removing unnecessary, confusing, and burdensome requirements currently set forth in Chapters 20 (General Provisions Applicable to All Taxes Administered by the Department of Taxation), 110 (Individual Income Tax), 112 (Declaration of Estimated Income Tax by Individuals), 115 (Fiduciary Income Tax), 120 (Corporation Income Tax), 140 (Income Tax Withholding), and 210 (Retail Sales and Use Tax). This will involve the repeal of several regulatory sections, as well as portions of certain sections.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input checked="" type="checkbox"/> Fast-Track Rule
Additional Description	<input checked="" type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	See Brief Overview
Expected Date	Action has been submitted to the Registrar for publication on July 15, 2024 and is expected to become effective September 28, 2024.

Title of Proposed Regulatory Action or Guidance Document	
Beneficial Hardwood Management Practices Tax Credit Guidelines	
Brief Overview	
During the 2022 Session, the Virginia General Assembly enacted House Bill 1319 (2022 Acts of Assembly, Special Session I, Chapter 18), which provides a nonrefundable individual income tax credit for expenses incurred by a taxpayer for the implementation of beneficial hardwood management practices. The credit is equal to the taxpayer's eligible expenditures up to \$1,000. The credit	

Is subject to an annual credit cap of \$1 million. The legislation requires the Department, in consultation with the Department of Forestry, to develop guidelines implementing the credit.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input checked="" type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute <input type="checkbox"/> Discretionary action
Deregulatory Component	Although this action will not reduce the number of guidance documents maintained by the Department, by providing guidance regarding the legislation, the action will remove a potential source of confusion to taxpayers and tax practitioners.
Expected Date	December 2024

Title of Proposed Regulatory Action or Guidance Document	
Market-Based Sourcing Guidelines for Internet Root Infrastructure Provider	
Brief Overview	
<p>During the 2023 Session, the Virginia General Assembly enacted House Bill 1481 (Chapter 405, 2023 Acts of Assembly) and Senate Bill 1349 (Chapter 406, 2023 Acts of Assembly), which allow an internet root infrastructure provider (“Provider”) that meets certain criteria and chooses to enter into a memorandum of understanding (“MOU”) with the Virginia Economic Development Partnership Authority (“the Authority”) to use a hybrid sales factor when filing Virginia corporate income tax returns. To qualify for this hybrid sales factor, a Provider must operate one of the internet root servers of the Internet Assigned Names Authority and enter into an MOU with the Authority that, among other criteria, have at least 550 employees in Planning District 8 with an average annual salary of \$175,000. An internet service provider, cable service provider, or similar company is not considered a Provider for purposes of these Acts.</p> <p>This legislation requires the Department to promulgate guidelines regarding the use of market-based sourcing for certain property information and analytics firms. Preliminary guidelines shall be promulgated and made publicly available no later than December 31, 2023, and final guidelines shall be promulgated and made publicly available no later than December 31, 2024.</p>	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input checked="" type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute <input type="checkbox"/> Discretionary action
Deregulatory Component	Although this action will not reduce the number of guidance documents maintained by the Department, by providing guidance regarding the legislation,

	the action will remove a potential source of confusion to taxpayers and tax practitioners.
Expected Date	December 2023 for the preliminary guidelines and December 2024 for the final guidelines

Title of Proposed Regulatory Action or Guidance Document	
Updated Firearm Safety Device Tax Credit Guidelines	
Brief Overview	
<p>During the 2024 Session, the General Assembly enacted House Bill 35 (Chapter 522, 2024 Acts of Assembly), which expands the definition of “firearm safety device” for purposes of the Firearm Safety Device Tax Credit to include any device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device. Under current law, “firearm safety device” is defined to include only firearm storage devices, such as gun safes, gun cases, and lock boxes.</p> <p>Prior legislation required the Department to publish guidelines, which it has done. However, such guidelines will have to be updated to reflect the enhancements made by these Acts.</p>	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input checked="" type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute <input type="checkbox"/> Discretionary action
Deregulatory Component	Although this action will not reduce the number of guidance documents maintained by the Department, by providing guidance regarding the legislation, the action will remove a potential source of confusion to taxpayers and tax practitioners.
Expected Date	July 2024

Title of Proposed Regulatory Action or Guidance Document	
Updated Research and Development Expenses Tax Credit Guidelines	
Brief Overview	
<p>During the 2024 Session, the General Assembly enacted House Bill 1518 (Chapter 661, 2024 Acts of Assembly), which increased the annual aggregate tax credit caps for the Research and Development Expenses Tax Credit by \$8 million (from \$7.77 million to \$15.77 million).</p> <p>Prior legislation required the Department to publish guidelines, which it has done. However, such guidelines will have to be updated to reflect the enhancements made by these Acts.</p>	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input checked="" type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Discretionary action

Brief Overview

During the 2024 Session, the Virginia General Assembly enacted House Bill 790 (Chapter 821) and Senate Bill 582 (Chapter 796), which establish that no tobacco retailer can operate a tobacco retail establishment unless such tobacco retailer has obtained a license for each location or place of business from the Department of Taxation. However, any retail dealer who holds an approved Retail Sales and Use Tax Exemption Certificate for Stamped Cigarettes Purchased for Resale or an Other Tobacco Products Distributor’s License issued by the Department is not required to obtain a license under these Acts.

Every application for a liquid nicotine and nicotine vapor products license is required to include specified information and must be accompanied by a fee as prescribed by the Department. Upon receipt of such application, the Department is required to conduct a background investigation. The Department may refuse to issue a license or to suspend, revoke, or refuse to renew a license if the principals and managers at the licensable location of the applicant have been convicted of specified crimes.

Additionally, the Department is required to impose penalties on:

- Any retail establishment that:
 - Sells liquid nicotine or nicotine vapor products to a person who has not attained the legal age for that purchase, and
 - Makes a sale without a valid liquid nicotine and nicotine vapor products license; and
- Any retail dealer that sells retail tobacco product to a person under 21 years of age who has not attained the legal age.

These Acts also provide that the Department is required to collaborate with the Virginia Alcoholic Beverage Control Authority and local law enforcement to enforce and administer the tax and licensing of liquid nicotine and nicotine vapor products. This includes enforcement of age verification, product verification, advertising restrictions, licensing, and collection of the tax. In addition, these Acts also create the Tobacco Retail Enforcement Fund (“the Fund”). Revenues generated by the penalties above are to be deposited into the Fund. Moneys in the fund are allowed to be used solely for the purposes of funding the Department's direct and indirect costs of the license administration and enforcement program, and the administrative costs of education and training, retail inspections, and unannounced compliance checks.

This legislation requires the Department to promulgate guidelines implementing its provisions.

Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule	<input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule	<input checked="" type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute	<input type="checkbox"/> Discretionary action
Deregulatory Component	Although this action will not reduce the number of guidance documents maintained by the Department, by providing guidance regarding the legislation, the action will remove a potential source of confusion to taxpayers and tax practitioners.	

Expected Date	October 2024
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