

## Virginia Issues Guidance Regarding Statewide Increase to Retail Sales and Use Tax Rate

June 20, 2013

### Overview

On June 14, 2013, the Virginia Department of Taxation (the “Department”) issued guidance with respect to House Bill (H.B.) 2313, (Virginia Acts of Assembly 2013, Chapter 766).<sup>1</sup> H.B. 2313 makes a variety of amendments to Virginia law, including:

- An increase in the general statewide retail sales and use tax rate to 5.3 percent; and
- Imposes an additional regional retail sales and use tax at the rate of 0.70 percent in the Northern Virginia and Hampton Roads regions.

We summarize the law changes and Department Guidelines in this Tax Alert.<sup>2</sup>

### Increase in the Statewide Retail Sales and Use Tax Rate

Effective July 1, 2013,<sup>3</sup> the statewide sales and use tax rate will increase as follows:

- The rate of the state portion of the retail sales and use tax will increase from 4 percent to 4.3 percent.<sup>4</sup> The rate of the local option retail sales and use tax will remain at 1 percent.<sup>5</sup> Thus, the total rate of the statewide tax will increase from 5 percent to 5.3 percent statewide.
- The rate for vending machine dealers will increase from 6 percent to 6.3 percent (the sum of the 5.3 percent state rate and the 1 percent local option rate) of wholesale purchases for resale.<sup>6</sup>
- The rate of tax on food purchased for home consumption, currently 2.5 percent (1.5 percent state and 1 percent local) is not affected by this rate increase.<sup>7</sup>

### Imposition of New Regional Sales and Use Tax in Northern Virginia and Hampton Roads Regions

Effective July 1, 2013, a new additional state retail sales and use tax will be imposed in the Northern Virginia and Hampton Roads regions at a rate of 0.70 percent.<sup>8</sup> Thus, the total rate of the state and local retail sales and use tax will be 6 percent in localities that fall within these regions (the sum of the 4.3 percent state rate, the 0.70 percent new regional rate, and the 1 percent local rate). The rate for vending machine dealers in the Northern Virginia and Hampton Roads regions will increase to 7 percent (the sum of the 5.3 percent state rate, the 0.70 percent regional rate, and the 1 percent local rate) of wholesale purchases.<sup>9</sup> The new regional sales and use taxes do not apply to food purchased for home consumption.<sup>10</sup>

#### *Northern Virginia and Hampton Roads Regions*

*Northern Virginia.* The Department Guidelines define “Northern Virginia Region” as the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

<sup>1</sup> See Guidelines for the Retail Sales and Use Tax Changes Enacted in the 2013 General Assembly Session (“Department Guidelines”), Public Document (“P.D.”) 13-57 (5/1/2013); revised and superseded as P.D. 13-103 (6/14/2013).

<sup>2</sup> For purposes of this Alert, we are not providing a comprehensive review of all changes contained in H.B. 2313. Taxpayers should note that H.B. 2313 conforms Virginia law to the requirements of proposed federal legislation that would grant states the authority to require remote sellers to collect the retail sales and use tax. The Department will issue additional guidance upon the passage of such federal legislation.

<sup>3</sup> In general, a law enacted at a regular session shall take effect on the first day of July following adjournment of the session. Va. Const. Art. IV, §13.

<sup>4</sup> H.B. 2313, amending Va. Code Ann. §§ 58.1-603 and 58.1-604.

<sup>5</sup> Va. Code Ann. §§ 58.1-605 B, 58.1-606 A.

<sup>6</sup> H.B. 2313, amending Va. Code Ann. § 58.1-614 A. See also, Department Guidelines.

<sup>7</sup> Va. Code Ann. § 58.1-611.1. See also, Department Guidelines.

<sup>8</sup> H.B. 2313 adding Va. Code Ann. §§ 58.1-603.01 and 58.1-604.01. The 0.70 percent tax is levied in addition to the state sales and use tax imposed pursuant to Va. Code Ann. §§ 58.1-603 and 58.1-604.

<sup>9</sup> H.B. 2313, amending Va. Code Ann. § 58.1-614 A. See also, Department Guidelines.

<sup>10</sup> Va. Code Ann. §§ 58.1-603.01 A and 58.1-604.01 A. See also, Department Guidelines.

*Hampton Roads.* The Department Guidelines define the “Hampton Roads Region” as the Counties of Isle of Wight, James City, Southampton and York and the Cities of Chesapeake, Franklin, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg.<sup>11</sup>

The Department Guidelines contains guidance on various topics including dealer discounts, sourcing, and transitional rules.<sup>12</sup>

### Other Taxes Affected by the Legislation

In addition to the sales and use tax rate increases described above, the rate of the special state use tax on motor vehicles, machinery and tools, aircraft and equipment brought into Virginia for use in performing construction contracts will increase from 5 percent to 5.3 percent (except aircraft, motor vehicles and watercraft which are taxed at specific rates).<sup>13</sup> Motor vehicles will be taxed at the rate of 4 percent effective July 1, 2013. The tax rate on motor vehicles will then increase to 4.05 percent effective July 1, 2014, 4.10 percent effective July 1, 2015, and 4.15 percent beginning July 1, 2016.<sup>14</sup>

Additionally, other changes included in the legislation include a regional transient occupancy tax imposed at a rate of 2 percent of the amount of the charge for the occupancy of any room or space occupied in the Northern Virginia region,<sup>15</sup> a regional congestion relief fee imposed on transactions involving real property transactions in certain jurisdictions,<sup>16</sup> and modifications to gasoline and fuel tax provisions.<sup>17</sup>

### Contacts

If you have questions regarding these Virginia law changes, or other Virginia tax matters please contact any of the following Deloitte Tax professionals.

David Vistica Director Deloitte Tax LLP, Wash D.C. <a href="mailto:dvistica@deloitte.com">dvistica@deloitte.com</a> (202) 370-2268	Joseph Carr Director Deloitte Tax LLP, McLean <a href="mailto:josecarr@deloitte.com">josecarr@deloitte.com</a> (703) 251-1532	Scott Frishman Principal Deloitte Tax LLP, McLean <a href="mailto:sfrishman@deloitte.com">sfrishman@deloitte.com</a> (703) 251-3471
--	---	---

**This alert contains general information only and Deloitte is not, by means of this alert, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This alert is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this alert.**

#### About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see [www.deloitte.com/about](http://www.deloitte.com/about) for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms. Please see [www.deloitte.com/us/about](http://www.deloitte.com/us/about) for a detailed description of the legal structure of Deloitte LLP and its subsidiaries.

Certain services may not be available to attest clients under the rules and regulations of public accounting. Copyright © 2013 Deloitte Development LLC. All rights reserved.  
Member of Deloitte Touche Tohmatsu Limited

<sup>11</sup> The Department Guidelines as originally issued on May 1, 2013, included Gloucester and Surry as Counties within the Hampton Roads Region. The revised Department Guidelines issued on June 14, 2013, indicate that based on legal advice the Department has removed Gloucester and Surry Counties from the Hampton Roads Region.

<sup>12</sup> P.D. 13-103 (6/14/2013).

<sup>13</sup> H.B. 2313, amending Va. Code Ann. § 58.1-604.1. Taxpayers should note that the new additional state use tax will also be imposed in the Northern Virginia and Hampton Roads regions so that the tax under this section would be 6 percent in those regions for all property except motor vehicles, aircraft, and watercraft.

<sup>14</sup> H.B. 2313, amending Va. Code Ann. § 58.1-2402 A.

<sup>15</sup> H.B.2313, adding Article 10, Va. Code Ann. § 58.1-1742. See also, Department Guidelines.

<sup>16</sup> H.B.2313, adding Va. Code Ann. § 58.1-802.2.

<sup>17</sup> H.B.2313, Amending Va. Code Ann. §§58.1-2201, et seq.