

Guidelines for the Motor Vehicle Rental and Peer-to-Peer Vehicle Sharing Tax

Effective July 1, 2012, 2011 *Acts of Assembly*, Chapters 405 and 639 transferred administration of the MVRT from the Department of Motor Vehicles (“DMV”) to the Department of Taxation (the “Department”). The Department published [Guidelines for the Motor Vehicle Rental Taxes and Fee](#) (Public Document 12-101) on June 25, 2012 to provide guidance to persons who rent motor vehicles subject to the MVRT. The Department amended the [Guidelines](#) on July 1, 2013 (Public Document 13-109) to reflect legislative changes and is now amending the Guidelines to provide guidance to taxpayers regarding the tax law changes applicable to peer-to-peer vehicle sharing.

2020 Senate Bill 735 (2020 *Acts of Assembly*, Chapter 1266) created the Virginia Motor Vehicle Rental and Peer-to-Peer Vehicle Sharing Tax (the “Rental Tax”) effective October 1, 2020. Peer-to-peer (“PTP”) vehicle sharing is subject to the new Peer-to-Peer Vehicle Sharing Tax (“PTP Tax”) component of the Rental Tax. Prior to the law change, passenger vehicle rental and peer-to-peer vehicle sharing were both treated as the rental of passenger vehicles for purposes of the Motor Vehicle Rental Tax and Fee (“MVRT”) and the two activities were taxed at the same rate. The law change does not affect the tax laws applicable to traditional passenger vehicle rental

These guidelines are not rules or regulations subject to the provisions of the Administrative Process Act (Va. Code § 2.2-4000 et seq.) and are being published in accordance with the Tax Commissioner’s general authority to supervise the administration of the tax laws of the Commonwealth pursuant to Va. Code § 58.1-202. As necessary, additional information will be published and posted on the Department’s website, www.tax.virginia.gov.

These guidelines represent the Department’s interpretation of the relevant laws. They do not constitute formal rulemaking and hence do not have the force and effect of law or regulation. In the event that the final determination of any court holds that any provision of these guidelines is contrary to law, taxpayers who follow these guidelines will be treated as relying on erroneous written advice for purposes of waiving penalty and interest under Va. Code §§ 58.1-105, 58.1-1835, and 58.1-1845. To the extent there is a question regarding the application of these guidelines, taxpayers are encouraged to write to the Department and seek a written response to their question.

Tax on Vehicle Rentals

The MVRT is comprised of a tax, an additional tax, and a fee assessed on passenger vehicle rentals. A four percent tax is imposed on the gross proceeds from the rental, for a period of less than 12 months, of motor vehicles with a gross vehicle weight rating or gross combined weight rating of 26,000 pounds or less. An additional tax is imposed on the rental of every motor vehicle regardless of the weight, except for motorcycles and manufactured homes, at a rate of four percent of the gross proceeds. A two percent fee is also levied on the gross proceeds from the rental of motor vehicles, except for

motorcycles and manufactured homes. Most passenger vehicles that are rented are subject to the MVRT at a combined rate of 10 percent of the gross proceeds.

Tax on Peer-to-Peer Vehicle Sharing

2020 Senate Bill 735 imposes the PTP Tax on peer-to-peer vehicle sharing beginning October 1, 2020. For PTP vehicle owners that list no more than ten different vehicles on any combination of vehicle sharing platforms at any one time, the PTP Tax will be levied at a rate of 6.5 percent of the gross proceeds collected from the shared vehicle driver. The rate of the PTP Tax will increase to 7.0 percent beginning July 1, 2021. (See *Va. Code* § 58.1-1736(D)(1) and (2))

PTP vehicle owners that list more than ten different shared vehicles on any combination of vehicle sharing platforms at any one time will have their vehicle sharing transactions subject to the PTP Tax at the rate of the MVRT otherwise imposed on the rental of a motor vehicle and daily rental vehicle rather than the lower rate (6.5 percent prior to July 1, 2021 and 7 percent beginning July 1, 2021). The higher rate will apply for so long as they continue to list more than ten different vehicles and regardless of whether more than ten vehicles are actually shared or rented at any given time. The act of listing more than ten vehicles as available for sharing triggers the application of the higher rate regardless of whether more than ten of those vehicles are actually rented at one time. (See *Va. Code* § 58.1-1736(D)(3))

Prior to registering any vehicle for sharing on a PTP vehicle sharing platform, and on a continuing and ongoing basis, PTP vehicle owners have an obligation to certify to all PTP vehicle sharing platforms on which they currently list vehicles for sharing, including the platform upon which they are about to register such vehicle, whether the PTP vehicle owner or any affiliates have registered more than ten different shared vehicles on any combination of platforms at any one time, or whether the inclusion of the vehicle about to be registered would cause that PTP vehicle owner to exceed ten or more different shared vehicles. Failure by the PTP vehicle owner to provide a PTP vehicle sharing platform with such certification will result in the PTP vehicle owner having to pay the taxes due and any applicable penalties until such notification is given and affirmed by the PTP vehicle sharing platform. (See *Va. Code* § 58.1-1736(E))

PTP vehicle sharing platforms must require this certification and clearly indicate both how to certify and how PTP vehicle owners may receive acknowledgment of such certification.

Definitions

Terms used in the Rental Tax have the same meaning as those used in the Retail Sales and Use Tax, unless defined otherwise, as follows:

“Daily rental vehicle” means a motor vehicle used for rental as defined herein and for the transportation of persons or property, whether on its own structure or by drawing another vehicle or vehicles, except (i) a motorcycle or a manufactured home as defined in *Va.*

Code § 46.2-100 or (ii) a shared vehicle as defined in *Va. Code* § 46.2-1408. (See *Va. Code* § 58.1-1735)

“Gross proceeds” means the charges made or voluntary contributions received for the rental or peer-to-peer sharing of a motor vehicle where the rental, lease, or vehicle sharing platform agreement is for a period of less than 12 months. This includes charges for any services that are part of the rental agreement or any separate charges relating to the agreement as well as charges for collision coverage or waiver of property damage, public liability, or other forms of potential liability for the customer. However, gross proceeds does not include: 1) cash discounts allowed and actually taken on a rental contract or vehicle sharing platform agreement; 2) finance charges, carrying charges, service charges, or interest from credit given on a rental contract or vehicle sharing agreement; 3) charges for motor fuels; 4) charges for optional accidental death insurance, unless the charge contains other taxable charges which are not separately stated; 5) Motor Vehicle Sales and Use Tax; 6) charges for violations, citations, or fines and related penalties and fees; 7) delivery charges, pickup charges, recovery charges, or drop charges; 8) pass-through charges; 9) transportation charges; 10) third-party service charges; 11) refueling surcharges; and 12) the Rental Tax. (See *Va. Code* § 58.1-1735)

“Manufactured home” means a structure, subject to federal regulation, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. (See *Va. Code* § 46.2-100)

“Mobile office” means an industrialized building unit not subject to federal regulation, which may be constructed on a chassis for the purpose of towing to the point of use and designed to be used with or without a permanent foundation, for commercial use and not for residential use; or two or more such units separately towable but designed to be joined together at the point of use to form a single commercial structure, and which may be designed for removal to, and installation or erection on, other sites. (See *Va. Code* § 58.1-1735)

“Motor vehicle” means every vehicle, except for a mobile office as herein defined, that is self-propelled or designed for self-propulsion and every vehicle drawn by or designed to be drawn by a motor vehicle, including manufactured homes as defined in *Va. Code* § 46.2-100 and every device in, upon, and by which any person or property is, or can be, transported or drawn upon a highway, but excepting devices moved by human or animal power, devices used exclusively upon stationary rails or tracks, and vehicles, other than manufactured homes, used in the Commonwealth but not required to be licensed by the Commonwealth. (See *Va. Code* § 58.1-1735)

“Peer-to-peer vehicle sharing” means the authorized use of a shared vehicle by a shared vehicle driver through a peer-to-peer vehicle sharing platform. (See *Va. Code* § 46.2-1408)

“Peer-to-peer vehicle sharing platform” means an online-enabled application, website, or system that connects vehicle owners with drivers to enable the sharing of peer-to-peer shared vehicles for financial consideration. (See *Va. Code* § 46.2-1408)

“Rental” means the transfer of the possession or use of a motor vehicle, whether or not the motor vehicle is required to be licensed by the Commonwealth, by a person for a consideration, without the transfer of the ownership of such motor vehicle, for a period of less than 12 months. Any fee arrangement between the holder of a permit issued by DMV for taxicab services and the driver or drivers of such taxicabs shall not be deemed a rental for purposes of the Rental Tax. Any fee arrangement between a licensed driver training school and a student in that school, whereby the student may use a vehicle owned or leased by the school to perform a road skills test administered by DMV shall not be deemed a rental for purposes of the Rental Tax. (See *Va. Code* § 58.1-1735)

“Rental in the Commonwealth” means any rental where a person received delivery of a motor vehicle within the Commonwealth of Virginia. The term “Commonwealth” shall include all land or interest in land within the Commonwealth owned by or conveyed to the United States of America. (See *Va. Code* § 58.1-1735)

“Rentor” means a person engaged in the rental of motor vehicles for consideration. (See *Va. Code* § 58.1-1735). For purposes of this Guidance, “Rentor” also includes any PTP shared vehicle owners and PTP shared vehicle platforms required to collect the PTP Tax.

“Shared vehicle” means a motor vehicle that has been made available for sharing through a peer-to-peer vehicle sharing platform. “Shared vehicle” does not include a daily rental vehicle as defined in *Va. Code* § 58.1-1735. (See *Va. Code* § 46.2-1408)

“Shared vehicle driver” means an individual who has been authorized to operate a shared vehicle by the shared vehicle owner under a vehicle sharing platform agreement. (See *Va. Code* § 46.2-1408)

“Shared vehicle owner” means the registered owner, or a person or entity designated by the registered owner, of a vehicle made available for sharing to shared vehicle drivers through a peer-to-peer vehicle sharing platform. (See *Va. Code* § 46.2-1408)

“Vehicle sharing platform agreement” means the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-to-peer vehicle sharing platform. (See *Va. Code* § 46.2-1408)

Taxable Rentals

The Rental Tax is levied on the gross proceeds from the rental or sharing of motor vehicles in Virginia.

The taxes applicable to the rental of vehicles are comprised of a four percent tax as well as a four percent additional tax and two percent fee on daily rental vehicles. The four percent tax is a state tax and is levied on the gross proceeds from the rental in Virginia of all motor vehicles with a gross vehicle weight rating or a gross combination weight rating of 26,000 pounds or less. Both the four percent additional tax and the two percent fee are levied on the gross proceeds from the rental in Virginia of any daily rental vehicle. The four percent additional tax and the two percent fee are in addition to, and not in lieu of, the four percent tax.

The tax applicable to peer-to-peer sharing of all motor vehicles is a 6.5 percent tax (7.0 percent beginning July 1, 2021) levied on the gross proceeds paid by the shared vehicle driver.

The following table is provided to clarify the tax and fee structure by listing certain types of vehicles and the taxes that apply:

Type of Vehicle	Tax on Rental Activity and Peer-to-Peer Sharing Activity of More than 10 Vehicles	Tax on Peer-to-Peer Sharing Activity of 10 Vehicles or Fewer
Motor vehicles with a gross vehicle weight rating or gross combination weight rating of 26,000 pounds or less	4.0% tax, the 4.0% additional tax and 2.0% fee	6.5% tax (7.0% effective July 1, 2021)
Motor vehicles with a gross vehicle weight rating or gross combination weight of 26,001 pounds or more	4.0% additional tax and 2.0% fee	6.5% tax (7.0% effective July 1, 2021)
Manufactured homes	4.0% tax	6.5% tax (7.0% effective July 1, 2021)
Mobile Offices	No tax or fee	No tax or fee
Motorcycles	4.0% tax	6.5% tax (7.0% effective July 1, 2021)

Nontaxable Transactions

Charges for the following transactions are not subject to the Rental Tax and no exemption certificate is required:

- Fee arrangements between the holder of a permit issued by DMV for taxicab services and the driver or drivers of such taxicabs. (See *Va. Code* § 58.1-1735)
- Fee arrangements between a licensed driver training school and a student in that school, whereby the student may use a vehicle owned or leased by the school to perform a road skills test administered by DMV. (See *Va. Code* § 58.1-1735)
- Rentals or vehicle sharing of self-contained mobile computerized axial tomography scanners to a nonprofit hospital or a cooperative hospital service organization as described in § 501(e) of the *Internal Revenue Code*. (See *Va. Code* § 58.1-1737)
- Rentals or vehicle sharing of self-contained mobile units designed exclusively for human diagnostic or therapeutic service to a nonprofit hospital or a cooperative hospital service organization established for research in, diagnosis of, or therapy for human ailments as described in § 501(e) of the *Internal Revenue Code*, or a nonprofit corporation as defined in § 501(c)(3) of the *Internal Revenue Code*, established for research in, diagnosis of, or therapy for human ailments. (See *Va. Code* § 58.1-1737)
- Rentals or vehicle sharing to private nonprofit institutions of learning for the sole purpose of use in driver education instruction that is a part of such institution's curriculum for full-time students. (See 24 VAC 20-100-210)
- Rentals or vehicle sharing to the United States, the Commonwealth or political subdivisions of the Commonwealth for their exclusive use if the purchases are pursuant to required official purchase orders to be paid for out of public funds. A United States government credit card or a Commonwealth of Virginia credit card may also be used if the credit of the federal or state government is bound and billings are sent directly to and paid by the government. (See *Va. Code* § 58.1-1737)
- Rentals or vehicle sharing to any person for the purpose of re-rental or re-sharing. The person who will be re-renting or re-sharing the vehicle must have a valid rental or sharing certificate of registration in order for a transaction to qualify for this exemption and the Rentor must keep adequate documentation of such certificate of registration. (See *Va. Code* § 58.1-1735)
- Rentals of a truck, tractor truck, trailer, or semitrailer (except trailers and semitrailers not designed or used to carry property and certain vehicles registered pursuant to *Va. Code* § 46.2-700) with a gross vehicle weight rating or gross combination rating of 26,001 pounds or more are exempt from the tax imposed pursuant to *Va. Code* § 58.1 – 1736(A)(1). (See *Va. Code* § 58.1-1737(5))

No other transactions are specifically exempt from the Rental Tax.

Gross Proceeds

For purposes of computing the Rental Tax applicable to vehicle rental and peer-to-peer

vehicle sharing, gross proceeds is defined as the charges made or voluntary contributions received for the rental or sharing of a motor vehicle where the rental, lease agreement, or vehicle sharing platform agreement is for a period of less than 12 months. This includes charges for any services that are part of the lease or agreement or any separate charges relating to the agreement as well as charges for collision coverage or waiver of property damage, public liability, or other forms of potential liability for the customer. However, the following amounts are excluded from gross proceeds:

- Cash discounts allowed and actually taken on a rental contract or vehicle sharing platform agreement.
- Finance charges, carrying charges, service charges, or interest from credit given on a rental contract or vehicle sharing platform agreement.
- Charges for motor fuels.
- Charges for optional accidental death insurance, unless the charge contains other taxable charges which are not be separately stated.
- Charges for violations, citations, or fines and related penalties and fees.
- Delivery charges, pickup charges, recovery charges, and drop charges.
- Pass through charges.
- Transportation charges.
- Third-party service charges.
- Refueling surcharges
- Motor Vehicle Sales and Use Tax and the Rental Tax. (See *Va. Code* § 58.1-1735)

Example 1

A customer rents or shares a motor vehicle for \$100 with \$50 collision coverage as part of the rental contract or vehicle sharing platform agreement, for a total of \$150. Gross proceeds for purposes of the Rental Tax would include the charges for renting or sharing the motor vehicle and for the collision coverage. The Rentor would collect the Rental Tax on gross proceeds of \$150.

Example 2

A customer rents a motor vehicle for \$100 with both \$50 collision coverage and \$25 optional accidental death coverage as part of the rental contract, for a total of \$175. Gross proceeds for purposes of the Rental Tax would include the charges for renting the motor vehicle and for the collision coverage, and would exclude the charges for the optional accidental death coverage. The Rentor would collect the Rental Tax on gross proceeds of \$150.

Charge or Credit Card Sales

Any Rentor receiving payment for rentals or sharing transactions through charge or credit cards must report the total selling price and pay the applicable tax for the taxable period in which the rented or shared motor vehicle is returned by the customer or shared vehicle driver.

Example 3

A customer takes delivery of a rented or shared motor vehicle and returns the vehicle to the Rentor in July and presents a credit card as payment. The Rentor must report and pay the tax on the July return, due August 20, even if reimbursement from the credit card company has not been received.

Sourcing Rules

As a portion of the Rental Tax is distributed back to the locality wherein the shared vehicle driver or customer received delivery of the PTP shared vehicle or daily rental vehicle, the entity collecting the applicable tax must allocate the gross proceeds and tax due to the applicable locality. Regardless of the location where the rental or sharing agreement is written, where the rental or sharing terminates, or where the vehicle is surrendered, the Rental Tax should be sourced to the county, city, or town wherein the vehicle was delivered for use or picked up by the rental customer or shared vehicle driver. (See *Va. Code* § 58.1-1741)

Example 4

A customer places an order for the rental or sharing of a motor vehicle at a business location outside of the Commonwealth and the motor vehicle is delivered within the Commonwealth to a location in County A. The transaction would be subject to the Rental Tax and sourced to County A.

Example 5

A customer places an order for the rental or sharing of a motor vehicle at a business location in County A and the motor vehicle is delivered outside of the Commonwealth. The transaction would not be subject to the Rental Tax.

Example 6

A customer places an order for the rental of a motor vehicle at a business location in County A and takes possession of the motor vehicle at the business location. The rental is sourced to County A.

Example 7

A shared vehicle driver places an order for the sharing of a motor vehicle online while at home in County A and takes possession of the motor vehicle at a location within County B. The transaction is sourced to County B.

Example 8

A customer places an order for the rental of a motor vehicle at a business location in County A and has the motor vehicle delivered to his home in Town B, but surrenders the vehicle at the business location in County A. The rental is sourced to Town B.

Example 9

A shared vehicle driver places an order for the sharing of a motor vehicle online while at a business location in County A and has the motor vehicle delivered to his home in Town B, but surrenders the vehicle at the business location in County A. The transaction is sourced to Town B. The transaction would be sourced to Town B whether the vehicle was delivered to Town B for the specific transaction or if it was already located there to be picked up by the shared vehicle driver.

Example 10

A customer places an order for the rental or sharing of a motor vehicle at a business location in County A. The motor vehicle is delivered outside of the Commonwealth, but is surrendered at the business location in County A. The transaction would not be subject to the Rental Tax.

Registration of Rentors

Every Rentor engaged in the rental or sharing of motor vehicles in the Commonwealth is required to file an application for a Certificate of Registration with the Department for collection and payment of the Rental Tax. This includes every person outside Virginia that is liable to collect the Rental Tax and is engaged in renting or sharing motor vehicles delivered to a customer within the Commonwealth. Such Rentors must file returns and perform all other duties required of Rentors in this state. (See *Va. Code* § 58.1-1735)

Rentors that are liable to collect the Rental Tax should apply for a Certificate of Registration online at the Department's website at www.tax.virginia.gov. A separate application for a Certificate of Registration is required for each place of business.

The Department will review and approve an application for registration and issue the Rentor an official Certificate of Registration. The Certificate of Registration is not transferable and is valid only for the designated Rentor. A copy of the Certificate of Registration must always be displayed conspicuously at each place of business and on all websites and online applications operated by peer-to-peer vehicle sharing platforms that are registered to collect the Rental Tax .

If a Rentor ceases to conduct his business, the certificate immediately expires. Changes in ownership or corporate structure may require that the business apply for and obtain a

new Certificate of Registration. For more information regarding the sale or quitting of a business, please see the “Sale of Business” section below.

Registration and Licensing of Vehicles

Rentors should contact DMV for more information on the registration and licensing of motor vehicles.

The PTP Tax shall apply to a PTP shared vehicle regardless of the state for which a certificate of title for such shared vehicle is required. (See *Va. Code* § 58.1-1738 B)

Filing of Monthly Returns and Payment of Tax

Every Renter registered or required to be registered for the Rental Tax is required to file Form MVR-420, Rental Tax Return, or Form P2P, Peer-to-Peer Vehicle Sharing Tax Return, on or before the 20th day of the month following each reporting period. No form is due for a reporting period in which no tax is due. Unless specifically waived, every Renter registered or required to be registered for the MVRT must also include Schedule MVR-420B, Local Rental Tax Schedule when filing Form MVR-420, and every Renter registered or required to be registered for the PTP Tax must also include Schedule P2P-B and P2P-S, Schedule of Peer-to-Peer Vehicle Sharing Tax for Large Fleets and Schedule of Peer-to-Peer Vehicle Sharing Tax for Small Fleets, as needed based on such Renter’s collections.

At the time of filing Form MVR-420, Rental Tax Return, or Form P2P, Peer-to-Peer Vehicle Sharing Tax Return, the Renter must pay the amount of tax due. Transactions should be reported in the period in which the vehicles were returned. The return for each period becomes delinquent on the twenty-first day of the succeeding month if not paid. In the case of Rentors regularly keeping books and accounts on the basis of an annual period that varies from 52 to 53 weeks, reporting consistent with such accounting period is acceptable, provided a satisfactory explanatory statement is attached to the Renter’s first return filed under such annual accounting period. Rentors should retain Form MVR-420A, Rental Tax Return Worksheet, or Form P2PA, Peer-to-Peer Vehicle Sharing Tax Return Worksheet, for their records.

A Renter may apply in writing to the Department for an extension of time for filing a Form MVR-420 or Form P2P and paying the tax. The request must be made before the return becomes due and must state the necessity for additional time. An extension may be granted to the end of the calendar month in which the return is due, or for a period not exceeding 30 days. Penalty and interest will not be charged during the period of extension, except that interest will accrue on the tax at the rate prescribed in § 6621 of the *Internal Revenue Code* plus two percent where the extension is granted beyond the end of the calendar month in which the return is due. Any Renter who fails to file the return within the extended time and to pay the full amount required will be treated as if no extension had been granted. (See *Va. Code* § 58.1-1738)

Collection of the Rental Tax

The Rental Tax must be collected from the rental customer or shared vehicle driver, and must be separately stated for rentals as taxes and a fee, and for sharing transactions, as a tax, and added to the rental or sharing price on the rental contract or vehicle sharing agreement or contract. Transactions should be reported in the period in which the rental or shared vehicles were returned. The taxes and the fee are debts from the rental customer or shared vehicle driver to the Rentor until paid, and are recoverable in an action at law in the same manner as other debts. The MVRT must be remitted to the Department and reported on each Rentor's Form MVR-420, Rental Tax Return and the PTP Tax must be remitted to the Department and reported on each Rentor's Form P2P, Peer-to-Peer Vehicle Sharing Tax Return. (See *Va. Code* § 58.1-1738)

In the event that a Rentor collects the Rental Tax on exempt or non-taxable transactions, the Rentor must remit the erroneously or illegally collected tax to the Department unless or until the Rentor can affirmatively show that the tax has been refunded to the customer or credited to his account. A Rentor who intentionally neglects, fails or refuses to collect the Rental Tax is liable for and must pay the tax himself. (See *Va. Code* § 58.1-1738)

Who is Required to Collect the Rental Tax

The MVRT is to be collected by the rentor of the motor vehicle at the time that the vehicle is rented to the customer. (See *Va. Code* § 58.1-1738 A)

The PTP Tax is to be collected by the peer-to-peer vehicle sharing platform if such platform is required to or voluntarily agrees to collect the tax. In the absence of such voluntary or mandatory collection by the platform, the shared vehicle owner must collect the tax. The shared vehicle owner is not permitted to collect the PTP Tax in the event that the PTP Tax is collected by the PTP vehicle sharing platform. (See *Va. Code* § 58.1-1738 B)

The PTP Tax shall be collected by all PTP vehicle sharing platforms that have established sufficient contact with the Commonwealth by meeting at least one requirement in each of subdivisions C 1, 2, and 3 of *Va. Code* 58.1-612.1, *mutatis mutandis*. Accordingly, a PTP vehicle sharing platform will establish sufficient contact with the Commonwealth by:

1. Engaging, either directly or indirectly, through a commonly controlled person as defined in subsection D of *Va. Code* § 58.1-612 in any of the following activities:
 - a. Transmitting or communicating an offer or acceptance between a purchaser and a marketplace seller;
 - b. Owning or operating the infrastructure, whether electronic or physical, or technology that brings purchasers and marketplace sellers together; or
 - c. Providing a virtual currency that purchasers are allowed or required to use to purchase products from the marketplace seller;

2. Engaging in any of the following activities with respect to a shared vehicle owner's shared vehicle:

- a. Payment processing;
- b. Fulfillment or storage;
- c. Listing vehicles for sharing;
- d. Setting prices;
- e. Branding shared transactions as those of the PTP vehicle sharing platform; or
- f. Providing customer service or accepting or assisting with returns or exchanges; and

3. Establishing economic nexus through either of the following activities:

- a. Facilitating sharing transactions in Virginia that, in the aggregate, generate more than \$100,000 in gross revenue, or other minimum amount as may be required by federal law, for such PTP vehicle sharing platform. A PTP vehicle sharing platform may exceed this threshold based on transactions for either the previous or current calendar year. In determining gross revenues, the transactions conducted by all commonly controlled persons, as defined in subsection D of *Va. Code* § 58.1-612, shall be aggregated; or
- b. Facilitating 200 or more separate sharing transactions, or other minimum amount as may be required by federal law, in the Commonwealth in the previous or current calendar year. In determining the total number of sharing transactions attributable to a PTP vehicle sharing platform, the transactions conducted by all commonly controlled persons, as defined in subsection D of *Va. Code* § 58.1-612, shall be aggregated. (See *Va. Code* § 58.1-612.1 C)

For purposes of determining whether a PTP vehicle sharing platform meets the \$100,000 gross revenue or 200 transaction thresholds, the sharing transactions conducted by all commonly controlled persons will be aggregated and the sharing transactions of commonly controlled persons will be attributed to all members of its corporate group that are also PTP vehicle sharing platforms. A "commonly controlled person" is any person that is a member of the same "controlled group of corporations," as defined in Internal Revenue Code § 1563 (a), as the dealer or any other entity that bears the same relationship to the dealer as a corporation that is a member of the same "controlled group of corporations." (See *Va. Code* § 58.1-612 D).

Timing of Registration

If a previously unregistered PTP vehicle sharing platform establishes sufficient contact with the Commonwealth and, therefore, must register to begin collecting the PTP Tax, the

platform is required to register with the Department no later than 30 days from the day that the platform establishes sufficient contact with the Commonwealth. Platforms that establish economic nexus 30 or more days prior to October 1, 2020 must register to begin collecting the tax for transactions occurring on or after October 1, 2020.

PTP vehicle sharing platforms that have nexus with Virginia and shared vehicle owners collecting and remitting the Rental Tax on their own behalf must register for collection by checking the box on the Form R-1 indicating that they are registering to collect the “Peer-to-Peer Vehicle Sharing Tax” during registration.

A platform that is registered to collect the PTP Tax may cease collection of the tax on January 1 of the year following any year in which the platform fails to meet the \$100,000 gross revenue or 200 transaction thresholds. However, if and for so long as the platform is still engaging in or facilitating vehicle sharing transactions to Virginia customers, the platform maintains the obligation to begin collecting the PTP Tax within 30 days of re-establishing economic nexus with the Commonwealth. In the event that a platform intends to cease collection of the Rental Tax for any reason, such platform must provide written notice to all shared vehicle owners on behalf of whom they collect the tax at least 30 days in advance of the date upon which such platform intends to cease collection of the tax. Such written notice must clearly notify the shared vehicle owner of their obligation to register for collection of the Rental Tax as of the date that the platform ceases to collect. Such notice should also direct the shared vehicle owner to these Guidelines.

Example 11

A PTP vehicle sharing platform’s online application or website lists vehicles for peer-to-peer sharing on behalf of the vehicle owners in exchange for a fee. The application or website allows shared vehicle drivers to find suitable shared vehicles and arrange to take delivery of those vehicles for the purposes of vehicle sharing. In addition, the PTP vehicle sharing platform collects and processes the payments from the shared vehicle drivers. The PTP vehicle sharing platform conducted \$102,000 in sharing transactions for vehicles delivered to or picked up in Virginia on behalf of shared vehicle owners in 2019. Having met at least one requirement in each of subdivisions C 1, 2, and 3 of *Va. Code* § 58.1-612.1, the PTP vehicle sharing platform must register to collect the PTP Tax beginning October 1, 2020.

Example 12

Ride Co., a PTP vehicle sharing platform, did not exceed \$100,000 in gross revenues or 200 in facilitated vehicle sharing transactions to Virginia customers for the 2019 calendar year. Ride Co. exceeds the \$100,000 gross revenues threshold for the 2020 calendar year on March 1, 2020. Ride Co. would therefore be required to register for collection of the PTP Tax by October 1, 2020 and begin collecting the tax on October 1, 2020.

Example 13

Platform Co. a PTP vehicle sharing platform, exceeded \$100,000 in gross revenues in vehicle sharing transactions to Virginia customers during the 2019 calendar year and therefore registers to and begins to collect the PTP Tax on October 1, 2020. Platform Co. only receives gross revenues of \$99,000 from 100 transactions during the 2020 calendar year and continues selling during all of 2021. Platform Co. may cease collection of the tax on January 1, 2021. However, since Platform Co. is still engaging in the facilitation of vehicle sharing transactions, it must restart collection of the tax within 30 days of reestablishing sufficient contact with Virginia in the future. The shared vehicle owners utilizing Platform Co.'s platform must collect the Rental Tax for all periods of time during which Platform Co. is not obligated to collect the tax. Platform Co. must provide such shared vehicle owners with sufficient notice of their obligation to collect. (Please refer to *Timing of Registration* section above for notice requirements.)

Example 14

Dealer LLC, a PTP vehicle sharing platform, exceeds the 200 transactions threshold on September 1, 2020. Dealer LLC is required to register for collection of the PTP Tax and begin collecting the tax on October 1, 2020.

For additional information on establishing sufficient contact with the Commonwealth and registration requirements related thereto, please refer to [Public Document 20-43](#).

PTP Tax Rentor Liability Protection

A Rentor is relieved of liability for the incorrect collection or remittance of PTP Tax on transactions for which it acts as facilitator if the error is due to reasonable reliance on:

- An invalid exemption certificate provided by the shared vehicle owner or shared vehicle driver,
- Incorrect or insufficient information provided by the Commonwealth, or
- Incorrect or insufficient information provided by the shared vehicle owner or shared vehicle driver regarding the tax classification or proper sourcing of an item or transaction, provided the Rentor made a reasonable effort to obtain accurate information from the shared vehicle owner or driver.

This relief may not exceed the total amount of tax due from the Rentor on the incorrect transaction independent of penalties or interest that would have applied. (See *Va. Code* § 58.1-612.1 E) In addition, any Rentor that has collected an incorrect amount of Rental Tax is relieved from liability for such amount, including penalty or interest, if the error is a result of the remote seller's reasonable reliance on information provided by the Commonwealth. (See *Va. Code* § 58.1-625 D(2)) Any deficiency resulting from incorrect information provided by the PTP vehicle owner shall be the liability of the PTP vehicle owners.

Local Motor Vehicle License Taxes and Fees

No county, city, or town shall impose any tangible personal property tax, license tax, license fee or the requirement of a license tag, sticker or decal upon any daily rental vehicle that is subject to the 4.0 percent additional tax. (See *Va. Code* § 46.2-755)

No such restriction applies to the local taxation of passenger vehicles used as PTP shared vehicles. PTP Shared vehicles continue to be subject to local tangible personal property tax as well as local tag, sticker, and decal requirements.

Bad Debt

Every Rentor will be allowed a credit against the tax shown to be due on the return for the amount of tax previously paid on accounts that are owed to the Rentor and that have been found to be worthless within the period covered by the return. The credit, however, shall not exceed the amount of the uncollected sales price determined by treating prior payments on each debt as consisting of the same proportion of sales price, sales tax and other nontaxable charges as in the total debt originally owed to the Rentor. The amount of accounts for which a credit has been taken that are thereafter in whole or in part paid to the Rentor shall be included in the first return filed after such collection. (See *Va. Code* § 58.1-621)

Penalties and Interest

Except with respect to fraudulent returns, the failure to file a timely return and make a timely and full payment of this tax will subject the Rentor to a specific penalty to be added to the tax in the amount of six percent if the failure is for not more than one month, with an additional six percent for each additional month, or fraction thereof, during which the failure continues, not to exceed thirty percent in the aggregate. In no case, however, shall the penalty be less than ten dollars and such minimum penalty shall apply whether or not any tax is due for the period for which such return was required. (See *Va. Code* § 58.1-635 A)

In the case of a false or fraudulent return where willful intent exists to defraud the Commonwealth of this tax, or in the case of a willful failure to file a return with the intent to defraud the Commonwealth of this tax, a penalty of fifty percent of the amount of the proper tax shall be assessed. (See *Va. Code* § 58.1-635 A)

The rate of interest on omitted taxes and assessments is the “Underpayment Rate” established pursuant to § 6621(a)(2) of the *Internal Revenue Code* plus two percent. (See *Va. Code* § 58.1-15(A))

Sale of Business

If any Rentor is liable for any tax, penalty or interest and sells his business or stock of goods or quits the business, he must make a final return and payment within 15 days after the date of selling or quitting the business. At that time, he must also return his Certificate of Registration to the Department and include a letter explaining the situation. He must report on his final return the full name and address of any successor. (See *Va. Code* § 58.1-629)

The Rentor's successors or assigns, if any, must withhold a sufficient portion of the purchase money to cover the amount of any taxes, penalties and interest due and unpaid until the former owner produces either a receipt from the Department showing that payment has been made or a certificate stating that no taxes, penalties or interest are due. If the purchaser of a business or stock of goods fails to withhold a sufficient portion of the purchase money, he becomes personally liable for the payment of the taxes, penalties and interest due and unpaid by any former owner. (See *Va. Code* § 58.1-629)

A trustee, receiver, assignee, executor or administrator who continues to operate, manage or control a business engaged in renting motor vehicles must make application for a new Certificate of Registration except for a corporation which continues to exist as the same legal entity. The tax must be collected and paid like any other Rentor. It is immaterial that such officer or person may have been appointed by a court.

Compliance Provisions

The Retail Sales and Use Tax compliance provisions set forth in *Va. Code* §§ 58.1-630 through 58.1-637 and applicable Retail Sales and Use Tax Regulations will apply to the Rental Tax. Whenever the term "dealer" is used in these sections, the term "Rentor" shall be substituted:

- *Va. Code* § 58.1-630 Dealer Bonds
- *Va. Code* § 58.1-631 Jeopardy Assessments
- *Va. Code* § 58.1-632 Memoranda of Lien
- *Va. Code* § 58.1-634 Period of Limitations
- *Va. Code* § 58.1-636 Penalty for Failure to File Return or Making False Return
- *Va. Code* § 58.1-637 Bad Checks

(See *Va. Code* § 58.1-1738)

Records

Every dealer, and therefore every Rentor required to collect Rental Tax, is required to keep and preserve for three years adequate and complete records necessary to determine the amount of tax liability. Such records shall include: (1) a daily record of all cash and credit rentals by place of business, including rentals under any type of financing or installment plan in use, with indications of which rentals involved daily rental vehicles;

(2) a copy of all rental contracts for each vehicle held for rental; and (3) a record of all deductions and exemptions claimed in filing tax returns, including bad debts, and documentation providing that all nontaxable transactions were valid.

Records must be open for inspection and examination at all reasonable hours of the business day by the Department. The Rentor may maintain such records on microfilm or in an electronic format. (See *Va. Code* § 58.1-633 B)

Rentors are subject to all obligations placed upon dealers.

Administrative Rulings

A Rentor may request that the Tax Commissioner issue a written ruling when there is a question about the application of the tax to a specific situation. The Rentor must provide the Commissioner with all pertinent facts, including the names of individuals, firms or corporations involved; type, location and value of property; and any other relevant information. The Rentor may argue for the interpretation of the law most favorable to him.

A Rentor who acts on a written ruling that is later revoked or set aside by the courts or the Commissioner will have acted in good faith. A written ruling, however, becomes invalid if later changed by an amendment to the law, a court decision, or a rule or regulation issued by the Commissioner. (See 23 VAC 20-20-155)

Appeals

Taxpayers may appeal MVRT and PTP Tax assessments to the Department using the administrative appeals process applicable to other state taxes administered by the Department as set forth in *Va. Code* § 58.1-1820 *et seq.* and 23 VAC 20-20-165.

Additional Information

These guidelines are available online under the Guidance Documents section of the Department's website, located at <http://tax.virginia.gov/guidance-documents>. The Department will issue additional guidance regarding this law change if necessary. For additional information, please contact the Department at (804) 367-8037.

Approved:



Craig M. Burns
Tax Commissioner