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Fast-Track Regulation Agency Background Document

Agency name	Department of Taxation
Virginia Administrative Code (VAC) citation(s)	23 VAC 10-210
Regulation title(s)	Virginia Retail Sales and Use Tax
Action title	Amendment of the Retail Sales and Use Tax Chapter for Law Changes and Sourcing Rules
Date this document prepared	January 8, 2016

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Statutory Rate Change

This regulatory action will amend the Virginia Retail Sales and Use Tax regulation sections 23 VAC 10-210-160, 23 VAC 10-210-220, 23 VAC 10-210-250, 23 VAC 10-210-340, 23 VAC 10-210-450, 23 VAC 10-210-485, 23 VAC 10-210-630, 23 VAC 10-210-680, 23 VAC 10-210-2070, 23 VAC 10-210-3080, 23 VAC 10-210-6041, 23 VAC 10-210-6042, and 23 VAC 10-210-6043 to correct the Retail Sales and Use Tax rate to conform to House Bill 2313 (2013 *Acts of Assembly, Chapter 766*), which increased the state Retail Sales and Use Tax rate from 4 percent to 4.3 percent and imposed an additional state Retail Sales and Use Tax in the Northern Virginia and Hampton Roads regions at the rate of 0.7 percent, effective July 1, 2013.

The “Northern Virginia Region” is defined as the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. The “Hampton Roads Region” is defined 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. The revenues from the 0.7% regional state sales and use tax imposed in the Northern Virginia region are deposited in the Northern Virginia Transportation Authority Fund pursuant to *Va. Code* § 33.2-2509 and the revenues from the regional state sales and use tax imposed in the Hampton Roads region are deposited in the Hampton Roads Transportation Fund pursuant to *Va. Code* § 33.2-2600.

Sourcing Rules

As the additional 0.7% state Retail Sales and Use Tax is only imposed in certain localities, the total Retail Sales and Use Tax rate may be different depending on which locality the sale or use is sourced. On June 13, 2013, the Department of Taxation published the “Guidelines for the Retail Sales and Use Tax Changes Enacted in the 2013 General Assembly Session” after working with affected dealers, providers of transient lodgings, and local governments. The Guidelines set out rules based on long-standing policy pursuant to *Va. Code* §§ 58.1-605 and 606 regarding how to determine which Virginia locality is attributed the sale or use of tangible personal property for the purposes of the Retail Sales and Use Tax.

This regulatory action will amend the Place of business in Virginia; situs of sale Regulation Section, 23 VAC 10-210-2070, to set out all of the sourcing rules in one regulation. The regulatory action also will change the title of the regulation to “Situs of sale.” Currently, Regulation section 23 VAC 10-210-2070 sets forth the definition of “place of business” for purposes of the Retail Sales and Use Tax and how “place of business” is determined.

Absorption of Tax and Dealer Discount Legislative Changes

The regulatory action also will amend 23 VAC 10-210-340, Collection of tax by dealers, to reflect the law change allowing dealers to absorb the sales and use tax during the sales tax holiday period pursuant to *Va. Code* § 58.1-626. The regulatory action will amend 23 VAC 10-210-485, Dealer’s Compensation or Discount, to reflect the current discount percentages provided by House Bill 29 and House Bill 30 (2010 *Acts of Assembly*, Chapters 872 and 874); House Bill 1500 (2011 *Acts of Assembly*, Chapter 890); House Bill 1300 and House Bill 1301 (2012 Special Session I *Acts of Assembly*, Chapters 2 and 3); House Bill 1500 (2013 *Acts of Assembly*, Chapter 806); House Bill 5001, House Bill 5002, and House Bill 5010 (2014 Special Session I *Acts of Assembly*, Chapters 1,2, and 3); and House Bill 1400 (2015 *Acts of Assembly*, Chapter 665).

Fuels for Domestic Consumption

This action will amend 23 VAC 10-210-630, Fuels for domestic consumption, to update the list of cities and counties that notified the Department prior to March, 1983, that ordinances had been adopted exempting fuels for domestic consumption from the local 1% sales and use tax. The amendment will add to the list of cities and counties that the Department is aware of having, as of 2014, adopted an ordinance exempting fuels for domestic consumption from the local 1% sales and use tax.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.

Not applicable.

Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The Tax Commissioner approved the amendment of the Virginia Retail Sales and Use Tax regulation sections on December 2, 2015.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

Virginia Code § 58.1-203 authorizes the Tax Commissioner to issue regulations relating to the interpretation and enforcement of the laws governing taxes administered by the Department of Taxation. The Retail Sales and Use Tax is administered by the Department of Taxation.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

Statutory Rate Change and Legislative Changes

This regulatory action is needed to 1) update the Retail Sales and Use Tax rate to the rate provided in the statute, 2) reflect the legislative change allowing dealers to absorb the sales and use tax during the sales tax holiday period, and 3) reflect the legislative change in the dealer discount percentages. Updating the Retail Sales and Use Tax Regulation sections for the rate change and the other legislative changes does not reflect any change in current tax policy and will have no impact on the administration of the Retail Sales and Use Tax.

Sourcing Rules

As the additional 0.7% state Retail Sales and Use Tax is only imposed in certain localities, the Retail Sales and Use Tax rate may be different depending on which locality the sale or use is sourced. On June 13, 2013, the Department of Taxation published the "Guidelines for the Retail Sales and Use Tax Changes Enacted in the 2013 General Assembly Session" after working with affected dealers, providers of transient lodgings, and local governments. The Guidelines set out rules based on long-standing policy pursuant to Va. Code §§ 58.1-605 and 606 regarding how to determine which Virginia locality is attributed the sale or use of tangible personal property for the purposes of the Retail Sales and Use Tax. This proposal is needed to set out these sourcing rules in a regulation.

Fuels for Domestic Consumption

This regulatory action is needed to update the list of cities and counties that the Department is aware of having, as of 2014, adopted ordinances exempting fuels for domestic consumption from the local 1% sales and use tax. Updating the regulation does not reflect any change in current tax policy and will have no impact on the administration of the Retail Sales and Use Tax.

Rationale for using fast-track process

Please explain the rationale for using the fast-track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Legislative Changes

Amending the Retail Sales and Use Tax regulation sections to update the tax rate and reflect legislative changes regarding the absorption of the Retail Sales and Use Tax and the dealer discount percentages is expected to be noncontroversial and appropriate for the fast-track process.

Sourcing Rules

Amending the Place of business in Virginia; situs of sale regulation to provide sourcing rules is expected to be noncontroversial and appropriate for the fast-track process as it will set out rules based on long-standing policy that were published in guidelines issued in 2013. These rules are set out for purposes of the 1% local option sales and use tax in *Va. Code* §§ 58.1-605 and 606. The Department provided the draft Guidelines on April 8, 2013, to Commissioners of the Revenue in the Northern Virginia and Hampton Roads regions; industry organizations such as the Virginia Chamber of Commerce, Virginia Retail Merchants Association, and the Virginia Petroleum, Convenience, and Grocery Association; the Virginia Society of Certified Public Accountants; the Virginia Bar; and several retailers. After allowing the interested parties time to comment and review and receiving no opposition, the Department published the final “Guidelines for the Retail Sales and Use Tax Changes Enacted in the 2013 General Assembly Session” on May 1, 2013. The Guidelines were subsequently revised and re-issued on June 13, 2013, pursuant to a legal decision regarding the localities that fall within the Hampton Roads region. The Department is not aware of anyone disagreeing with the revised Guidelines.

Fuels for Domestic Consumption

Amending the Fuels for domestic consumption regulation to update the list of cities and counties that the Department is aware of having, as of 2014, adopted ordinances exempting fuels for domestic consumption from the local 1% sales and use tax is expected to be noncontroversial and appropriate for the fast-track process.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of changes” section below.

Legislative Changes

This action will amend the Retail Sales and Use Tax Regulation sections to 1) update the Retail Sales and Use Tax rate to the rate provided in the statute, 2) reflect the legislative change allowing dealers to absorb the sales and use tax during the sales tax holiday period, and 3) reflect the legislative change in

the dealer discount percentages. Updating the Retail Sales and Use Tax Regulation sections for the rate change and the other legislative changes does not reflect any change in current tax policy and will have no impact on the administration of the Retail Sales and Use Tax.

Sourcing Rules

This regulatory action will amend 23 VAC 10-210-2070, Place of business in Virginia; situs of sale, to set out sourcing rules for the Retail Sales and Use Tax. Traditionally, determining the situs of a sale subject to the Virginia Retail Sales and Use Tax was necessary to determine which city or county received the 1% local option sales and use tax. Effective July 1, 2013, determining the situs of a sale became more important because an additional state Retail Sales and Use Tax was imposed in the Northern Virginia and Hampton Roads regions at the rate of 0.7% pursuant to House Bill 2313 (2013 *Acts of Assembly, Chapter 766*). The “Northern Virginia Region” is defined as the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. The “Hampton Roads Region” is defined 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.

On June 13, 2013, the Department of Taxation published the “Guidelines for the Retail Sales and Use Tax Changes Enacted in the 2013 General Assembly Session” after working with affected dealers, providers of transient lodgings, and local governments. The Guidelines set out rules based on long-standing policy regarding how to determine which Virginia locality is attributed the sale or use of tangible personal property for the purposes of the Retail Sales and Use Tax. These rules are set out for purposes of the 1% local option sales and use tax in *Va. Code* §§ 58.1-605 and 606.

Generally, intrastate sales are sourced to the city or county of the place of business of the dealer collecting the tax, without regard to the city or county of possible use by the purchaser. The use tax is generally sourced to the city or county where the goods are used or consumed by the purchaser, or stored for use or consumption. Out-of-state dealers who hold Certificates of Registration to collect the use tax from their customers must source sales into Virginia according to the city or county of destination.

The regulatory action will also change the title of the regulation to “Situs of sale.”

Fuels for Domestic Consumption

This action will amend 23 VAC 10-210-630, Fuels for domestic consumption, to update the list of cities and counties that notified the Department prior to March, 1983, that ordinances had been adopted exempting fuels for domestic consumption from the local 1% sales and use tax. The amendment will add to the list of cities and counties that the Department is aware of having, as of 2014, adopted an ordinance exempting fuels for domestic consumption from the local 1% sales and use tax.

Issues

Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

As the regulatory action will update the Retail Sales and Use Tax regulation sections to reflect current law and set out rules based on long-standing policy pursuant to *Va. Code* §§ 58.1-605 and 606, there are no issues or disadvantages to the public or the Commonwealth associated with this regulatory action.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

No locality would be particularly affected by amending this regulation.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

As this regulatory action will update the Retail Sales and Use Tax regulation sections to reflect the current law and set out sourcing rules based on long-standing policy pursuant to Va. Code §§ 58.1-605 and 606, this regulatory action will have no impact on businesses.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures</p>	<p>There will be no cost to the state to implement and enforce the amended regulation sections. Any impact results from the legislative changes. The regulation is simply being updated to conform to the law changes.</p>
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<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>There will be no cost to localities related to the amended regulation sections. Any impact results from the legislative changes. The regulation is simply being updated to conform to the law changes.</p>
<p>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>No one will be affected by the amended regulation sections. Any impact results from the legislative changes. The regulation is simply being updated to conform to the law changes.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>No one will be affected by the amended regulation sections. Any impact results from the legislative changes. The regulation is simply being updated to conform to the law changes.</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>There are no cost related to the amended regulation sections. Any impact results from the legislative changes. The regulation is simply being updated to conform to the law changes.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>The proposed amendments would set out, in one place, rules based on long-standing policy pursuant to <i>Va. Code</i> §§ 58.1-605 and 606 regarding how to determine which Virginia locality is attributed the sale or use of tangible personal property for the purposes of the Retail Sales and Use Tax.</p> <p>Additionally, the proposed amendments would update the regulation sections to reflect changes in the law, including the Retail Sales and Use Tax rate.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

There are no other alternatives that would provide the sourcing rules in a regulation and update the regulation sections to reflect current law.

Public participation notice

If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Periodic review and small business impact review report of findings

If this fast-track is the result of a periodic review/small business impact review, use this form to report the agency's findings. Please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and (2) indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

Commenter	Comment	Agency response

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

Amending the Retail Sales and Use Tax regulation sections will have no impact on the institution of the family and family stability and will not 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income. Any impact results from the legislative changes. The regulation is simply being updated to conform to the law changes.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below.

For changes to existing regulation(s), please use the following chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
23 VAC 10-210-160	Not applicable	<ul style="list-style-type: none"> The regulation sets forth the rules regarding bad debts. 	<ul style="list-style-type: none"> The regulatory action will update the regulation to provide for the correct statutory Retail Sales and Use Tax rate, including the additional state regional tax in the Northern Virginia and Hampton Roads region that was imposed by House Bill 2313 (<i>Acts of Assembly 2013, Chapter 766</i>).
23 VAC 10-210-220	Not applicable	<ul style="list-style-type: none"> The regulation sets forth the brackets for the collection of the Retail Sales and Use Tax. 	<ul style="list-style-type: none"> The regulatory action will update the regulation to provide brackets for the correct Retail Sales and Use Tax rate. The amendment will provide the affected localities and brackets for the Retail Sales and Use Tax in the Northern Virginia and Hampton Roads region, which includes the additional state regional tax imposed by House Bill 2313 (<i>Acts of Assembly 2013, Chapter 766</i>). This information was set out in the “Guidelines for the Retail Sales and Use Tax Changes Enacted in the 2013 General Assembly Session” published by the Department of Taxation on June 13, 2013. The state regional tax is

			codified in <i>Va. Code</i> §§ 58.1-603.1 and 58.1-604.01.
23 VAC 10-210-250	Not applicable	<ul style="list-style-type: none"> The regulation sets forth the rules regarding cash and trade discounts. 	<ul style="list-style-type: none"> The regulatory action will update the regulation to provide for the correct statutory Retail Sales and Use Tax rate, including the additional state regional tax in the Northern Virginia and Hampton Roads region that was imposed by House Bill 2313 (<i>Acts of Assembly 2013, Chapter 766</i>).
23 VAC 10-210-340	Not applicable	<ul style="list-style-type: none"> The regulation sets forth the rules regarding the collection of the Retail Sales and Use Tax by dealers. 	<ul style="list-style-type: none"> The regulatory action will amend the regulation to reflect the law change allowing dealers to absorb the sales and use tax during the sales tax holiday period pursuant to <i>Va. Code</i> § 58.1-626. The regulatory action also will update the regulation to provide for the correct statutory Retail Sales and Use Tax rate, including the additional state regional tax in the Northern Virginia and Hampton Roads region that was imposed by House Bill 2313 (<i>Acts of Assembly 2013, Chapter 766</i>).
23 VAC 10-210-450	Not applicable	<ul style="list-style-type: none"> The regulation sets forth the rules regarding credit for taxes paid to other states or their political subdivisions. 	<ul style="list-style-type: none"> The regulatory action will update the regulation to provide for the correct statutory Retail Sales and Use Tax rate, including the additional state regional tax in the Northern Virginia and Hampton Roads region that was imposed by House Bill 2313 (<i>Acts of Assembly 2013, Chapter 766</i>).
23 VAC 10-210-485	Not applicable	<ul style="list-style-type: none"> The regulation sets forth the procedures and examples regarding the dealer's compensation or discount 	<ul style="list-style-type: none"> The regulatory action will update the regulation to reflect the current discount percentages provided by House Bill 29 and House Bill 30 (2010 <i>Acts of Assembly</i>, Chapters 872 and 874); House Bill 1500 (2011 <i>Acts of Assembly</i>, Chapter 890); House Bill 1300 and House Bill 1301 (2012 Special Session I <i>Acts of Assembly</i>, Chapters 2 and 3); House Bill 1500 (2013 <i>Acts of Assembly</i>, Chapter 806); House Bill 5001, House Bill 5002, and House Bill 5010 (2014 Special Session I <i>Acts of Assembly</i>, Chapters 1, 2, and 3); and House Bill 1400 (2015 <i>Acts of Assembly</i>, Chapter 665).

			<ul style="list-style-type: none"> The regulatory action also will update the regulation to provide for the correct statutory Retail Sales and Use Tax rate, including the additional state regional tax in the Northern Virginia and Hampton Roads region that was imposed by House Bill 2313 (<i>Acts of Assembly 2013, Chapter 766</i>).
23 VAC 10-210-630	Not applicable	<ul style="list-style-type: none"> The regulation sets forth the rules regarding fuels for domestic consumption. The regulation sets forth the list of cities and counties that notified the Department prior to March, 1983, that ordinances had been adopted exempting fuels for domestic consumption from the local 1% sales and use tax. 	<ul style="list-style-type: none"> The regulatory action will update the regulation to provide for the correct statutory Retail Sales and Use Tax rate, including the additional state regional tax in the Northern Virginia and Hampton Roads region that was imposed by House Bill 2313 (<i>Acts of Assembly 2013, Chapter 766</i>). The regulatory action will provide the list of cities and counties that the Department is aware of having, as of 2014, adopted an ordinance exempting fuels for domestic consumption from the local 1% sales and use tax. According to the 2014 Weldon Cooper survey, an additional 5 localities answered that they exempted residential heating fuels: the Cities of Harrisonburg and Portsmouth and the Counties of Campbell, Madison, and Prince George.
23 VAC 10-210-680	Not applicable	<ul style="list-style-type: none"> The regulation sets forth the rules regarding gifts purchased in Virginia. 	<ul style="list-style-type: none"> The regulatory action will update the regulation to provide for the correct statutory Retail Sales and Use Tax rate, including the additional state regional tax in the Northern Virginia and Hampton Roads region that was imposed by House Bill 2313 (<i>Acts of Assembly 2013, Chapter 766</i>).
23 VAC 10-210-2070	Not applicable	<ul style="list-style-type: none"> Current name: Place of business in Virginia; situs of sale. <u>Current:</u> The regulation sets forth the definition of “place of business” for purposes of the Retail Sales and Use Tax and how “place of business” is determined. 	<ul style="list-style-type: none"> The regulatory action will change the title of the regulation section to “Situs of sale” to shorten the title and make it a better fit with the substance of the regulation. The amendment will provide the affected localities and the rate for the additional state regional tax in the Northern Virginia and Hampton Roads region that was imposed by

		<ul style="list-style-type: none"> • <u>Current:</u> The regulation has no provisions regarding the additional state regional sales and use tax. • <u>Current:</u> The regulation provides sourcing rules for the purposes of the 1% local option sales tax in <i>Va. Code</i> §§ 58.1-605 and 606. 	<p>House Bill 2313 (<i>Acts of Assembly 2013, Chapter 766</i>). This information was set out in the “Guidelines for the Retail Sales and Use Tax Changes Enacted in the 2013 General Assembly Session” published by the Department of Taxation on June 13, 2013. The state regional tax is codified in <i>Va. Code</i> §§ 58.1-603.1 and 58.1-604.01.</p> <ul style="list-style-type: none"> • The amendment will set out that in-state sales are sourced to the city or county of the place of business of the dealer collecting the tax, without regard to the city or county of possible use by the purchaser. The remote sale (by telephone, Internet, or mail order) of tangible personal property from an in-state dealer with a place of business in Virginia is sourced to the location in which the order was first taken, even if the goods are ultimately delivered to the purchaser at another location. The amendment also will set out examples regarding how to determine which Virginia locality is attributed the sale or use of tangible personal property for the purposes of the sales tax. These rules are set out for the purposes of the 1% local option sales and use tax in <i>Va. Code</i> §§ 58.1-605 and 606. <p>Sourcing rules for the state and local Retail Sales and Use Tax based on long-standing policy pursuant to <i>Va. Code</i> §§ 58.1-605 and 606 are set out in the “Guidelines for the Retail Sales and Use Tax Changes Enacted in the 2013 General Assembly Session.” The same sourcing rules for the purposes of the 1% local option sales and use tax regarding sales by in-state dealers, out-of-state dealers, and remote sales can be found in the Fuels for Home Consumption Regulation, 23 VAC 10-210-630.</p> <ul style="list-style-type: none"> • Additionally, the amendment will set out that the use tax is generally sourced to the city or county where the goods are used or consumed by
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			<p>the purchaser, or stored for use or consumption. Out-of-state dealers who hold Certificates of Registration to collect the use tax from their customers must source sales into Virginia according to the city or county of destination. The amendment also will set out examples regarding how to determine which Virginia locality is attributed the sale or use of tangible personal property for the purposes of the use tax.</p> <p>Sourcing rules for the state and local Retail Sales and Use Tax based on long-standing policy pursuant to <i>Va. Code</i> §§ 58.1-605 and 606 are set out in the “Guidelines for the Retail Sales and Use Tax Changes Enacted in the 2013 General Assembly Session.” The same sourcing rules for the purposes of the 1% local option sales and use tax can be found in the Fuels for Home Consumption Regulation, 23 VAC 10-210-630, and the Use Tax Regulation, 23 VAC 10-210-6030.</p>
23 VAC 10-210-3080	Not applicable	<ul style="list-style-type: none"> The regulation sets forth the rules regarding returned goods. 	<ul style="list-style-type: none"> The regulatory action will update the regulation to provide for the correct statutory Retail Sales and Use Tax rate in the examples.
23 VAC 10-210-6041	Not applicable	<ul style="list-style-type: none"> The regulation sets forth the rules regarding dealers engaged in the business of placing vending machines. 	<ul style="list-style-type: none"> The regulatory action will update the regulation to provide for the correct statutory Retail Sales and Use Tax rate, including the additional state regional tax in the Northern Virginia and Hampton Roads region that was imposed by House Bill 2313 (<i>Acts of Assembly 2013, Chapter 766</i>).
23 VAC 10-210-6042	Not applicable	<ul style="list-style-type: none"> The regulation sets forth the rules regarding vending machine dealers under contract with nonprofit organizations. 	<ul style="list-style-type: none"> The regulatory action will update the regulation to provide for the correct statutory Retail Sales and Use Tax rate, including the additional state regional tax in the Northern Virginia and Hampton Roads region that was imposed by House Bill 2313 (<i>Acts of Assembly 2013, Chapter 766</i>).
23 VAC 10-210-6043	Not applicable	<ul style="list-style-type: none"> The regulation sets forth the rules regarding dealers selling tangible 	<ul style="list-style-type: none"> The regulatory action will update the regulation to provide for the correct statutory Retail Sales and Use Tax

		personal property through vending machines.	rate, including the additional state regional tax in the Northern Virginia and Hampton Roads region that was imposed by House Bill 2313 (<i>Acts of Assembly 2013, Chapter 766</i>).
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If an existing regulation or regulations (or parts thereof) are being repealed and replaced by one or more new regulations, please use the following chart:

Current chapter-section number	Proposed new chapter-section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements

If a new regulation is being promulgated, that is not replacing an existing regulation, please use this chart:

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements

If the proposed regulation is intended to replace an emergency regulation, and the proposed regulation is identical to the emergency regulation, please choose and fill out the appropriate chart template from the choices above. In this case “current section number” or “current chapter-section number” would refer to the **pre-emergency** regulation.

If the proposed regulation is intended to replace an emergency regulation, and the proposed regulation includes changes since the emergency regulation, please create two charts: 1) a chart describing changes from the **pre-emergency** regulation to the proposed regulation as described in the paragraph above, and 2) a chart describing changes from the **emergency** regulation to the proposed regulation. For the second chart please use the following title: “Changes from the Emergency Regulation.” In this case “current section number” or “current chapter-section number” would refer to the **emergency** regulation.