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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	Department of Taxation
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	23 VAC 10-11
<b>VAC Chapter title(s)</b>	Public Participation Guidelines
<b>Date this document prepared</b>	November 13, 2020

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the **Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code**.

## Acronyms and Definitions

*Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

Not Applicable

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency'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 Department"). Under § 2.2-4007.02 of the *Code of Virginia*, every rulemaking body in Virginia is required to have public participation guidelines and to use these guidelines in the development of its regulations. Chapter 321 of the 2008 Acts of Assembly mandated that by December 1, 2008, agencies either adopt model public participation guidelines issued by the Department of Planning and Budget or if they need to make significant changes to the model guidelines, promulgate new public participation guidelines as fast-track regulations. In a 2009 regulatory action, the Department of Taxation adopted the model public participation guidelines. The only change to the model guidelines that the Department of Taxation made was to increase the public comment period for regulations from 30 days to 60 days. This change was necessary to conform with *Va. Code* § 58.1-203, which provides that "notice of a proposed regulation shall appear at least sixty days in advance of the date prescribed for submittals."

**Alternatives to Regulation**

*Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.*

Chapter 321 of the 2008 Acts of Assembly mandated that by December 1, 2008, agencies either adopt model public participation guidelines issued by the Department of Planning and Budget or if they need to make significant changes to the model guidelines, promulgate new public participation guidelines as fast-track regulations. As the Department is required to have a public participation guidelines regulation, there is no alternative.

**Public Comment**

*Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

Commenter	Comment	Agency response
Not Applicable		

**Effectiveness**

*Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.*

The Department of Taxation has determined that the regulation is required by law and is clearly written and easily understandable.

**Decision**

*Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

The regulation was revised in 2009 to adopt the model public participation guidelines issued by the Department of Planning and Budget. The Department recommends that this regulation stay in effect without change because it is required by *Code of Va.* § 2.2-4007.02 and assists in notifying the public of the agency's regulatory actions. No significant statutory changes have occurred since this regulation was promulgated that necessitate amending it.

### Small Business Impact

*As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (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. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.*

The regulation continues to be necessary as it is required by *Code of Va.* § 2.2-4007.02 and establishes the mechanisms by which the agency will advise the public of the agency's regulatory actions. The Department has received no complaints or comments from the public concerning the regulation. The regulation is based on the Department of Planning and Budget's model guidelines and is not complex. The regulation does not overlap, duplicate, or conflict with federal or state law or regulation. Since this regulation's adoption in 2008, there have not been significant changes in technology, economic conditions, or other factors that would necessitate amending this regulation. As the regulation is concise and up-to-date, it has no economic impact on any businesses, including small businesses.