



**COMMONWEALTH of VIRGINIA**  
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April 16, 2020

Ms. Melissa Velazquez  
Virginia Department of Motor Vehicles  
2300 West Broad Street  
Richmond Virginia 23269

Re: Virginia Motor Vehicle Rental Tax Rules and Regulations (24 VAC 20-100)

Dear Ms. Velazquez:

At your request, I have reviewed the Department of Motor Vehicles' posting for a fast-track repeal of the Virginia Motor Vehicle Rental Tax Rules and Regulations (24 VAC 20-100) pursuant to § 2.2-4012.1 of the *Code of Virginia*. This memorandum addresses legal matters only and is not intended as a comment for or against the merits of the proposed regulations.

Pursuant to Virginia Acts of Assembly 2011, Chapters 405 and 639, the responsibility to regulate motor vehicle rental tax in Virginia was shifted from DMV to the Department of Taxation. Virginia Code § 46.2-203 provides general statutory authority for DMV to promulgate regulations "necessary to carry out the laws administered by the Department." Such authority, by implication, includes the authority to repeal such regulations when DMV no longer maintains authority over the subject matter.

In addition, Va. Code Ann. § 2.2-4012.1, which governs the "[f]ast-track rulemaking process," states that "rules that are expected to be noncontroversial may be promulgated or repealed" in an expedited process. Because the responsibility for this tax no longer lies with DMV, the need for DMV to maintain these regulations has been obviated and the repeal of the regulations is necessary and should be noncontroversial.

As such, with regard to DMV's actions, it is my legal opinion that DMV has both the statutory authority and implied authority repeal the existing regulations referenced above.

Sincerely,

# Janet W. Baugh

Janet W. Baugh  
Senior Assistant Attorney General