

§ 58.1-540. Levy of the tax.

A. Any county having a population of more than 500,000, as determined by the 1980 U.S. Census, any county or city adjacent thereto, and any city contiguous to such an adjacent county or city, or any city with a population of at least 265,000, is hereby authorized to levy a local income tax at any increment of one-quarter percent up to a maximum rate of one percent upon the Virginia taxable income as determined in § 58.1-322 for an individual, § 58.1-361 for a fiduciary of an estate or trust, or § 58.1-402 for a corporation, for each taxable year of every resident of such county or city or corporation having income from sources within such county or city, subject to the limitations of subsection B of this section. The same rate shall apply to individuals, fiduciaries and corporations.

B. The authority to levy a local income tax as provided in subsection A may be exercised by a county or city governing body only if approved in a referendum within the county or city. The referendum shall be held in accordance with § 24.2-684. The referendum may be initiated either by a resolution of the governing body of the county or city or on the filing of a petition signed by a number of registered voters of the county or city equal in number to ten percent of the number of voters registered in the county or city on January 1 of the year in which the petition is filed with the circuit court of such county or city. The clerk of the circuit court shall publish notice of the election in a newspaper of general circulation in the county or city once a week for three consecutive weeks prior to the election. The ballot used shall be printed to read as follows:

"Shall the governing body of (...name of county or city...) have the authority to levy a local income tax of up to one percent for transportation purposes in accordance with § 58.1-540 of the Code of Virginia?

☐ Yes

☐ No"

If the voters by a majority vote approve the authority of the local governing body to levy a local income tax, the tax may be imposed by the adoption of an ordinance by the governing body of the county or city in accordance with general or special law, and the tax may be thereafter enacted, modified or repealed as any other tax the governing body is empowered to levy subject only to the limitations herein. No ordinance levying a local income tax shall be repealed unless and until all debts or other obligations of the county or city to which such revenues are pledged or otherwise committed have been paid or provision made for payment.

§ 58.1-541. Residency.

A. For purposes of this article, an individual shall be deemed to be a resident of any county or city in which the individual is domiciled at any time during the taxable year or has maintained his place of abode for an aggregate of more than 183 days of the taxable year.

B. A resident, for purposes of this article, shall also include an estate or trust if the fiduciary is domiciled in any county or city at any time during the taxable year or has a place of abode or a business situs therein for an aggregate of more than 183 days of the taxable year and the estate or trust is principally administered, managed, or directed from that county or city.

C. The local income tax of a resident of a locality for a portion of the taxable year will be computed in accordance with the principles of § 58.1-303 and regulations promulgated by the Tax Commissioner.

§ 58.1-542. Corporations subject to the local income tax.

A. For purposes of this article, a corporation shall be deemed to have income from sources within a county or city if it has:

1. Items of income, gain, loss and deduction attributable to:

a. The ownership of any interest in real or tangible personal property in the county or city; or

b. A business, trade, profession or occupation carried on in the county or city.

2. Income from intangible personal property, including annuities, dividends, interest, royalties and gains from the disposition of intangible personal property to the extent that such income is from property employed by the taxpayer in a business, trade, profession or occupation carried on in the county or city.

B. If the entire business of the corporation within the Commonwealth is transacted or conducted within the county or city imposing a local income tax, the tax shall be upon the entire Virginia taxable income of such corporation within the Commonwealth for each taxable year. The entire business of the corporation shall be deemed to have been transacted or conducted within the county or city if such corporation has no income from sources within any other county or city of the Commonwealth.

§ 58.1-543. What income apportioned and how.

Any corporation having income from sources within two or more counties and cities of the Commonwealth shall allocate and apportion its Virginia taxable income as provided in §§ 58.1-407 through 58.1-420, omitting the sales factor, substituting "county or city" for the words "state" or "Commonwealth," substituting "in the Commonwealth" for "everywhere," and substituting "total business in the Commonwealth" for "total business," as the Tax Commissioner shall provide by regulation.

§ 58.1-544. Effective date of tax; repeal thereof.

A. Any tax imposed under this article shall be effective for all taxable years beginning on or after January 1 of the year following the calendar year in which the ordinance levying the tax is adopted.

B. Subject to the limitations provided in subsection B of § 58.1-540, the repeal of any tax imposed under this section shall be effective for all taxable years beginning on or after January 1 of the year following the calendar year in which the ordinance levying the tax is repealed.

C. The local governing body shall transmit to the Tax Commissioner a certified copy of any ordinance levying, modifying or repealing the local income tax no later than thirty calendar days after its adoption and at least thirty calendar days prior to the effective date of the tax.

§ 58.1-545. Administration of tax; withholding; estimated tax.

A. Except where otherwise clearly provided in this article, any local income tax levied under § 58.1-540 shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties and other provisions as the state individual income tax, the state income tax on fiduciaries of estates and trusts, and the state income tax on corporations imposed in this chapter, which are hereby incorporated by reference, including, without limitation, the provisions of Articles 16 (§ 58.1-460 et seq.), 19 (§ 58.1-490 et seq.) and 20 (§ 58.1-500 et seq.) of this chapter relating generally to withholding and estimated tax.

B. The Tax Commissioner shall have the authority to promulgate regulations relating to the interpretation, administration, and enforcement of the local income tax authorized under this article, including the withholding of the tax by employers, the payment of estimated tax, and the allocation and apportionment of a corporation's income.

§ 58.1-546. Refund of overpayment; credits against tax.

A. If the amount of local income tax computed is less than the amount theretofore paid, the excess shall be refunded out of the state treasury on the order of the Tax Commissioner upon the Comptroller. Refunds issued hereunder shall not be reduced by any of the voluntary contributions permitted under §§ 58.1-345, 58.1-345.1, 58.1-346, 58.1-346.1 or § 58.1-346.2.

B. The tax credits provided in Articles 3 (§ 58.1-330 et seq.) and 13 (§ 58.1-430 et seq.) of this chapter shall not apply to the local income tax.

§ 58.1-547. Certificate of residency.

A. For purposes of the withholding of local income taxes by employers, every employee as defined in § 58.1-460 residing in any county or city that levies a local income tax shall complete a certificate of residency, on a form prescribed by the Tax Commissioner, showing the county or city in which he is a resident. Any individual who willfully supplies false or fraudulent information, or who willfully fails or refuses to supply information which would require the withholding of the local income tax, shall be guilty of a Class 1 misdemeanor.

B. Notwithstanding the provisions of subsection A of this section, the commissioner of the revenue, director of finance or other similar assessor of county or city taxes shall be responsible for verifying the physical residence of any individual or fiduciary subject to the local income tax levied in the county or city.

§ 58.1-548. Disposition of revenues; costs of administration.

A. All local income tax revenues collected by the Tax Commissioner pursuant to this article shall be paid into the General Fund of the state treasury.

B. Such revenues shall be transferred monthly by the Comptroller to a special fund entitled "Collections of Local Income Taxes," upon certification of such amounts by the Tax Commissioner.

C. As soon as practicable after the last day of each calendar quarter, the Comptroller shall pay over and distribute to each county and city the local income tax revenues to be estimated by the Tax Commissioner. The Tax Commissioner shall reconcile such estimates during the month following the close of the fiscal year for those returns on file for the preceding taxable year.

D. The direct costs of state administration of the local income tax as certified to the Comptroller by the Department of Taxation shall be deducted on a prorated basis from the distributions to each county and city under subsection C of this section. In determining each county's or city's prorated share of administrative costs, the Comptroller shall apportion the total administrative costs in the ratio which the revenues of each county or city bear to the total local income tax revenues distributed. The direct costs for local administration of the local income tax shall be paid entirely from the local revenues of the county or city.

E. All revenues distributed to a county or city under subsection C of this section shall be applied and expended for transportation purposes, including, without limitation, construction, administration, operation, improvement, maintenance and financing of transportation facilities.

As used in this section, the term "transportation facilities" shall include all transportation related facilities including, but not limited to, all highway systems, public transportation or mass transit systems as defined in § 33.1-12, airports as defined in § 5.1-1, and port facilities as defined in § 62.1-140. Such term shall be liberally construed for purposes of this section.

Any county or city that levies a local income tax under this article shall not reduce the total amount of its annual general fund appropriations, exclusive of the revenues derived from the tax levied under this article, for transportation purposes below the total amount appropriated for those purposes in the fiscal year preceding the adoption of the ordinance levying the tax.

Revenues derived by a county or city from the local income tax levied under this article shall be in addition to those allocated to the county or city from state transportation funds, which allocations shall not be reduced as a result of any revenues received hereunder.

F. If any revenues distributed to a county or city under subsection C of this section are applied or expended for any transportation facilities under the control and jurisdiction of any state agency, board, commission or authority, such transportation facilities shall be constructed, operated, administered, improved and maintained in accordance with laws, rules, regulations, policies and procedures governing said state agency, board, commission or authority; provided, however, that in the event these revenues, or a portion thereof, are expended for improving or constructing highways in a county which is subject to the provisions of § 33.1-75.3, such expenditures shall be undertaken in the manner prescribed in that statute.

§ 58.1-549. Expiration of authority to levy tax.

Notwithstanding the provisions of subsection B of § 58.1-540 or any other provision of law, no tax levied by a county or city under the authority of this article shall continue to be levied on or after a date five years from the effective date of the tax in such county or city.