

● INCOME TAX WITHHOLDING LAW

STATUTORY CITATION: Va. Code §§ 58.1-460 – 58.1-486

GENERAL SUMMARY: Every employer making payment of wages in Virginia must deduct and withhold from the wages of each employee, for each payroll period, an amount calculated to approximate the employee's state income tax liability on such wages at year's end. At regular intervals throughout the calendar year, withheld state taxes must be forwarded to the tax commissioner, along with a return. No later than January 31 of the ensuing year the employer must furnish each employee from whom taxes were withheld a written statement showing the employer's name, the name and Social Security number of the employee, the total amount of wages paid for the year, and the total amount of state income tax deducted and withheld.

PROVISIONS APPLICABLE TO AGRICULTURE: For state income tax purposes, Virginia conforms to the federal definition of income subject to withholding, and thus generally requires state withholding on any payment for which federal withholding is required. Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year must deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Virginia must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

SPECIAL NOTES OR ADVISORIES

TAX RETURNS AND LIABILITY — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Virginia Department of Taxation, Richmond, Virginia 23218 (804-367-8037).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None.*