

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 853

An Act to amend the Code of Virginia by adding a section numbered 58.1-609.12, relating to sales and use tax exemption reports by the Tax Commissioner.

[H 2852]

Approved March 26, 2005

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 58.1-609.12 as follows:

§ 58.1-609.12. Reports to General Assembly on tax exemptions studies.

A. The Tax Commissioner shall investigate and analyze the fiscal, economic and policy impact of each sales and use tax exemption set out in §§ 58.1-609.10 and 58.1-609.11. The Commissioner shall report the findings to the House and Senate Finance Committees each year by December 1, and shall present the first report on the exemptions in § 58.1-609.10 in December, 2006. Due to the number of exemptions in § 58.1-609.11, they shall be analyzed and reports issued each December in accordance with a schedule determined by the Tax Commissioner, beginning in December, 2007. When reports have been presented for all of the sales and use tax exemptions, the Tax Commissioner shall repeat the process beginning with the exemptions for which a report was made in 2006. No exemption shall be analyzed under the provisions of this section more frequently than once every five years.

B. When the Tax Commissioner investigates and analyzes the tax exemptions in §§ 58.1-609.10 and 58.1-609.11, the following information shall be considered and included in the report:

- 1. Estimate of foregone state and local revenues as a direct result of the exemption;*
- 2. Beneficiaries of the exemption;*
- 3. Direct or indirect local, state, or federal government assistance received by the person having the exemption;*
- 4. The extent to which the person, property, service, or industry is exempt from the retail sales and use tax in other states, especially states neighboring the Commonwealth;*
- 5. Any external statutory, constitutional, or judicial mandates in favor of the exemption;*
- 6. Other Virginia taxes to which the person, property, service, or industry is subject;*
- 7. Similar taxpayers who are not entitled to a retail sales and use tax exemption; and*
- 8. Other criteria, facts or circumstances that may be relevant to the exemption.*

In addition, the criteria provided in subsections C and D of § 58.1-609.11 shall be considered when the Tax Commissioner investigates and analyzes the tax exemptions in § 58.1-609.11.

C. For purposes of this section, the Department of Taxation and the Department of Agriculture and Consumer Services shall be allowed to share information when necessary to supplement the information required under this section.