

**DEPARTMENT OF TAXATION  
2006 Fiscal Impact Statement**

**1. Patron** Robert D. Hull

**2. Bill Number** HB 1370

**3. Committee** Passed House and Senate

**House of Origin:**

           **Introduced**

           **Substitute**

           **Engrossed**

**4. Title** Retail Sales and Use Tax: Exemption Study  
Reports to the General Assembly

**Second House:**

           **In Committee**

           **Substitute**

  X   **Enrolled**

**5. Summary/Purpose:**

This bill would modify and clarify the process by which the Tax Commissioner will prepare and submit annual retail sales and use tax exemption reports to the chairmen of the House and Senate Finance Committees with respect to miscellaneous and nonprofit exemptions. This bill would extend the due date of the first report from December 1, 2006 to December 1, 2007. The analysis of the nonprofit exemptions would be conducted over four years, with the first report due on December 1, 2008.

The effective date of the bill is not specified.

**6. No Fiscal Impact:** (See Line 8.)

**7. Budget amendment necessary:** No.

**8. Fiscal implications:**

Administrative Costs Impact

Funding to allow TAX to conduct study and produce the required reports was assumed in the introduced budget.

Revenue Impact

This bill would have no impact on state and local revenues.

**9. Specific agency or political subdivisions affected:**

Department of Taxation

**10. Technical amendment necessary:** No.

## 11. Other comments:

### Similar Study

The 1989 General Assembly passed legislation that required the Department to study all sales and use tax exemptions on a continuous five-year cycle, studying two categories of exemptions each year. The Department was required to publish the Sales and Use Tax Expenditure Study and present it to the Chairmen of the House Finance and Senate Finance Committees in December of each year. The goal of the Sales and Use Tax Expenditure Study was to provide a more complete picture of the revenue impact and policy issues surrounding each of the exemptions contained in the Retail Sales and Use Tax Act. The study included detailed information on the policy, fiscal, and economic impact of the exemptions as well as the apparent rationale for the exemptions and their legislative history. It was believed that the periodic review of sales and use tax exemptions was necessary in order to strengthen oversight and control over the process by which sales tax exemptions are granted. The Department published its last study in December 1995. The 1996 General Assembly repealed the requirement that the Department conduct the study.

### New Study

This bill would modify and clarify the requirements imposed on the Department by legislation enacted in 2005 (HB 2852, Chapter 853, 2005 Acts). House Bill 2852 requires the Department to do a more in-depth analysis of not only the nonprofit sales and use tax exemptions, but also the miscellaneous exemptions found in *Virginia Code* § 58.1-609.10.

With the changes proposed by this bill, the Department would be required to determine the fiscal, economic and policy impact of each sales and use tax exemption set out in §§ 58.1-609.10 (miscellaneous exemptions) and 58.1-609.11 (nonprofit exemptions). The Department's findings are to be presented to the chairmen of the House and Senate Finance Committees no later than December 1 of each year. The first such report would be due December 1, 2007. Subgroups of the exemptions would be reviewed in periodic cycles and reports issued on a rotating basis in accordance with a schedule determined by the Tax Commissioner. When such reports have been completed for each subgroup of the sales and use tax exemptions, the Tax Commissioner would repeat the process beginning with the subgroup of exemptions for which a report was made in 2007. No individual exemption would be analyzed under the provisions of this section more frequently than once every five years.

### Miscellaneous Exemptions

Currently, there are seventeen different categories of miscellaneous exemptions under *Virginia Code* § 58.1-609.10. These exemption categories include:

- Heating Fuels for Domestic Consumption
- Occasional sales
- Leasebacks
- Interstate and Foreign Commerce Deliveries

- Food Stamp Program and WIC Voucher
- Nuclear Regulatory Commission
- Professional Documents
- School Lunches and Textbooks
- Medicines and Drugs
- Prosthetic Devices
- Drugs and Supplies Used in Dialysis
- Special Equipment Installed on Motor Vehicles for the Handicapped
- Special Computers and Equipment used by the Handicapped
- Non-prescription Drugs and Proprietary Medicines
- Donations to Nonprofits
- Purchases by Churches
- Medical Products and Supplies to Medicare/Medicaid Recipients

For the miscellaneous exemptions, when investigating and analyzing the exemption, the Department would be required to consider the following, and to include in its report, the:

- Estimate of foregone state and local revenues as a direct result of the exemption;
- Beneficiaries of the exemption;
- Direct or indirect local, state, or federal government assistance received by the persons or entities granted the exemption, to the extent such information is reasonably available;
- The extent to which the comparable person, entity, property, service, or industry is exempt from the retail sales and use tax in other states, particularly states contiguous to the Commonwealth;
- Any external statutory, constitutional, or judicial mandates supporting the exemption;
- Other Virginia taxes to which the person, entity, property, service, or industry is subject;
- Similar taxpayers who are not entitled to a retail sales and use tax exemption; and
- Other criteria, facts or circumstances that may be relevant to the exemption.

### Nonprofit Exemptions

The bill would also require a report on the nonprofit organizations with a retail sales and use tax exemption under *Virginia Code* § 58.1-611. When the new administrative exemption process was enacted in 2003, the Department estimated that 22,000 nonprofit organizations in Virginia may benefit from the new exemption process. At that time there were 7,700 churches in Virginia that may also benefit from the new process. Currently, the Department issues a report each December 1 that reports on the fiscal impact of the exemptions granted to nonprofit organizations.

For the nonprofit exemptions, in addition to the information already reported on an annual basis regarding the fiscal impact of the exemption, the Department would be required to report on the extent to which the person, entity, property, service, or industry is exempt from the retail sales and use tax in other states, particularly states contiguous to Virginia.

cc : Secretary of Finance

Date: 03/23/2006 WBS  
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