

DEPARTMENT OF TAXATION

2006 Fiscal Impact Statement

1. **Patron** Walter A. Stosch

2. **Bill Number** SB 110

3. **Committee** Passed House and Senate

House of Origin:

 Introduced

 Substitute

 Engrossed

4. **Title** Retail Sales and Use Tax: Expands the
Exemption for Medicine and Drugs

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would expand the current retail sales and use tax exemption for medicine and drugs to include medicines and drugs purchased by for-profit nursing homes, clinics, and similar corporations. Currently, medicines and drugs are exempt when purchased by a licensed hospital. Controlled drugs are exempt when purchased by a licensed physician, optometrist, licensed nurse practitioner, or licensed physician assistants for use in a professional practice.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

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

8. **Fiscal implications:**

Administrative Costs Impact

The Department of Taxation would incur no administrative costs if this bill were passed.

Revenue Impact

According to federal statistics for 2003, there are 278 nursing homes in Virginia with 68 percent of these nursing homes being for profit. Nonprofit nursing homes may currently make purchases of medicines and drugs under the exemption available to nonprofit organizations. Based on these statistics, 189 nursing homes in the Commonwealth would benefit from the exemption proposed in this bill. TAX has no data on the purchases by for profit nursing homes; therefore, the revenue impact of this exemption is unknown.

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

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

History of this Exemption

This exemption was originally enacted in 1966 for medicines, drugs, crutches, braces, prosthetic devices, etc. when sold or dispensed on prescription or work order of licensed physicians, dentists, optometrists, ophthalmologists or opticians.

- 1972 – exemption expanded to include controlled drugs purchased by a physician for use in his practice.
- 1979 – exemption expanded to include medicine, drugs, prosthetic devices, orthopedic appliances sold on prescription of hearing aid dealers and fitters.
- 1987 – exemption expanded to include prescriptions issued by a veterinarian; however, veterinarians remained the taxable user of all prescription medication and drugs they dispensed.
- 1992 – exemption expanded to include controlled drugs purchased for use by a licensed physician in his professional practice regardless of whether such practice is organized as a sole proprietor, partnership, or professional corporation.
- 1995 – clarified that the exemption for medicines and drugs dispensed by certain practitioners on prescription orders is applicable to prescriptions issued by licensed nurse practitioners and licensed physicians' assistants.
- 1996 – deferred for two years, from July 1, 1996 to July 1, 1998, the effective date of the sales and use tax exemption for nonprescription drugs and proprietary medicines. The exemption for nonprescription drugs and proprietary medicines was enacted by the 1990 General Assembly, the effective date of which was previously extended by the 1992 and 1994 General Assembly.
- 1997 – expanded the exemption for nonprescription drugs and proprietary medicines to include samples of nonprescription drugs and proprietary medicines distributed free of charge by the manufacturer, including packaging materials and constituent elements and ingredients. The effective date of this expanded exemption coincides with the effective date of July 1, 1998 for all nonprescription drugs and proprietary medicines.
- 1999 – exemption expanded to include medicines and drugs purchased for the use and consumption by a licensed hospital. This exemption benefited for-profit hospitals as nonprofit hospital were already exempt on these purchases as a nonprofit organization.

Current Law

Under current law, controlled drugs purchased for use by a licensed physician, optometrist, licensed nurse practitioner, or licensed physician assistant in their professional practice are exempt from the tax, regardless of whether such practice is organized as a sole proprietorship, partnership or professional corporation, or other type of corporation in which the shareholders and operators are all licensed medical practitioners. The current exemption also provides that medicines and drugs purchased by a licensed hospital for their use and consumption are exempt from the tax. Medicines and drugs purchased by nonprofit nursing homes, clinics and similar corporations, likewise may be purchased exempt of the tax provided the nonprofit entity qualifies for the nonprofit exemption. This bill would expand the exemption to include medicines and drugs when purchased by nursing homes, clinics, and similar corporations, regardless of whether it is a for-profit entity or a nonprofit entity that does not qualify for the nonprofit exemption.

cc : Secretary of Finance

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