

DEPARTMENT OF TAXATION

2007 Fiscal Impact Statement

1. **Patron** Ken T. Cuccinelli, II

2. **Bill Number** SB 743

3. **Committee** Senate Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Sales and Use Tax; Modification of Process
for Obtaining Exemptions for Volunteer Fire
Departments and Rescue Squads

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide an exemption from the Retail Sales and Use Tax for 1) volunteer fire departments, 2) volunteer rescue squads, 3) nonprofit auxiliary or junior organizations of voluntary fire departments or rescue squads, and 4) nonprofit associations in which regular membership is composed of volunteer fire departments and volunteer rescue squads on purchases of tangible personal property to be used, consumed, or resold by such organizations

Under current law, these organizations must meet certain statutory requirements and file an application with TAX to obtain a sales and use tax exemption.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

6b. **Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2006-07	\$0	GF
	\$0	TTF
	\$0	Local
2007-08	(\$0.66 million)	GF
	(\$0.10 million)	TTF
	(\$0.19 million)	Local
2008-09	(\$0.66 million)	GF
	(\$0.10 million)	TTF
	(\$0.19 million)	Local
2009-10	(\$0.66 million)	GF
	(\$0.10 million)	TTF
	(\$0.19 million)	Local

2010-11	(\$0.66 million)	GF
	(\$0.10 million)	TTF
	(\$0.19 million)	Local
2011-12	(\$0.66 million)	GF
	(\$0.10 million)	TTF
	(\$0.19 million)	Local
2012-13	(\$0.66 million)	GF
	(\$0.10 million)	TTF
	(\$0.19 million)	Local

7. Budget amendment necessary: Yes

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8. Fiscal implications:

Administrative Costs Impact

TAX has not assigned any administrative costs to this proposal because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as “routine,” and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not “routine.” Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

Revenue Impact

It is estimated that the sales tax exemption proposed in this bill would reduce state and local revenues by \$0.95 million per year in fiscal years 2008 through 2013. On June 30, 2006, the day that their exemption obtained under the former exemption process expired, 511 volunteer fire and rescue squads held a statutory exemption obtained under the former exemption process. Currently, only 267 volunteer fire and rescue squads have qualified under the new exemption process administered by TAX. In fiscal year 2006, these 267 squads purchased \$15.05 million in otherwise taxable items. The \$0.95 million estimated revenue loss would result if the 244 additional volunteer fire and rescue squads that have not already qualified for an exemption under the new process would automatically receive exemptions on their purchases if this bill were enacted.

9. Specific agency or political subdivisions affected:

TAX

10. Technical amendment necessary: No.

11. Other comments:

History of Exemption Process for Nonprofit Entities

Prior to July 1, 2004, the Code of Virginia separately listed and provided a sales tax exemption for over 180 categories of non-profit entities. Entities not exempt by statutory classification were required to seek exemption through the Virginia General Assembly. Legislation enacted in the 2003 Virginia General Assembly, which became effective in July 1, 2004, altered the process by eliminating the need for exempt organizations to renew their sales tax exemptions through the legislature. The legislature extended those organizations' exemptions for a specified term and required that, upon expiration, the organizations would have to adhere to a three-part process to include applying to TAX, meeting applicable criteria, and being issued a certificate of exemption from TAX. Organizations that were not previously granted an exemption were also required to follow the process set forth above in order to obtain an exemption. The result of this legislation was that organizations no longer needed to apply to the General Assembly to receive an exemption or to renew an exemption, provided that they met the applicable criteria and performed all the necessary procedures. If all requirements were met, TAX may grant each organization a sales tax exemption for an additional period to expire in no less than five and no more than seven years, at which time the organization would have to reapply for exemption status.

Current Requirements

The new exemption process requires that nonprofit organizations meet the following criteria to be eligible for exemption:

- The entity must be either an organization exempt under Internal Revenue Code ("IRC") §§ 501(c)(3) or 501(c)(4), or have annual gross receipts of less than \$5,000 and be organized for a charitable purpose.
- The entity must have annual administrative costs that are 40% or less of annual gross receipts.
- The entity must be in compliance with state solicitation laws, if applicable.
- The entity must provide TAX with an estimate of its total taxable purchases
- The entity must provide TAX with a copy of its Form 990 or a list of its board of directors.
- The entity must provide TAX with a copy of a full financial audit, if its gross annual revenues are equal to or exceed \$500,000. A nonprofit organization with gross annual sales ranging from \$250,000 to \$500,000 will be subject to "financial review" rather than a full financial audit, and must present documentation of that review to TAX.

Prior to 2006, nonprofit entities were required to provide TAX with a copy of a full financial audit if their gross annual revenues were \$250,000 or more. As a result of budget language included in the Budget Bill (House Bill 5002, Chapter 3, Special Session 1 of 2006) and House Bill 5012 (Chapter 2, Special Session 1 of 2006), a nonprofit organization with gross annual sales ranging from \$250,000 to \$499,000 may submit a "review of its financial statements" in lieu of a full financial audit.

Proposal

Under the provisions of this bill, a Retail Sales and Use Tax exemption would be available for volunteer fire departments, volunteer rescue squads, nonprofit auxiliary or junior organizations of voluntary fire departments or rescue squads, and nonprofit associations in which the regular membership is composed of volunteer fire departments and volunteer rescue squads when they made purchases of tangible personal property intended for their use, consumption, or sale. Volunteer fire departments, rescue squads, and related organizations would no longer be required to apply to TAX and meet the current statutory requirements applicable to other nonprofit organizations in order to qualify for the exemption.

Similar Legislation:

House Bill 1948 is identical to this bill.

House Bill 2088 would exempt nonprofit schools from two of the five criteria required of other nonprofit organizations in order to qualify for exemption from the Retail Sales and Use Tax

House Bill 2545 would allow nonprofit entities with annual gross revenues of \$500,000 or more to submit a "financial review" in lieu of a "full financial audit" performed by an independent certified public accountant.

cc : Secretary of Finance

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