DEPARTMENT OF TAXATION
2008 Fiscal Impact Statement

1. **Patron** Emmett W. Hanger, Jr.

2. **Bill Number** SB 468
   House of Origin:
   ____ **Introduced**
   ____ **Substitute**
   ____ **Engrossed**

   Second House:
   X **In Committee**
   ____ **Substitute**
   ____ **Enrolled**

3. **Committee** House Finance

4. **Title** Retail Sales and Use Tax; Exemption for Sales Made by 4-H Clubs

5. **Summary/Purpose:**

This bill would add 4-H Clubs to the list of organizations that are authorized to elect not to collect the Retail Sales and Use Tax on sales made for fundraising. In order to be eligible for the exemption from collecting the sales tax, the 4-H Club would be required to hold a nonprofit entity certificate of exemption issued by TAX.

Under current law, certain nonprofit entities that file an application with TAX, meet the necessary criteria, and are subsequently issued a certificate of exemption from TAX may make purchases of tangible personal property exempt of the Retail Sales and Use Tax. A number of these organizations also enjoy an exemption from collecting the Retail Sales and Use Tax on their sales, provided 1) the entity is within the same class of organization as any entity that was exempt from collecting sales and use tax on June 30, 2003; or 2) the entity is organized exclusively to foster, sponsor, and promote physical education, athletic programs, and contests for youths in the Commonwealth.

The effective date of this bill is not specified.

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

6b. Revenue Impact:

Fiscal Year	***Dollars***	***Fund***
2007-08	$0	GF
	$0	TTF
	$0	Local
2008-09	($11,900)	GF
	($ 1,700)	TTF
	($ 3,500)	Local

2009-10	($13,700)	GF
	($ 2,000)	TTF
	($ 4,000)	Local
2010-11	($14,300)	GF
	($ 2,100)	TTF
	($ 4,200)	Local
2011-12	($14,800)	GF
	($ 2,200)	TTF
	($ 4,300)	Local
2012-13	($15,500)	GF
	($ 2,300)	TTF
	($ 4,500)	Local
2013-14	($15,900)	GF
	($ 2,300)	TTF
	($ 4,700)	Local

7. **Budget amendment necessary:** Yes.
   Page 1, Revenue Estimates

8. **Fiscal implications:**

   Administrative Costs Impact

   TAX considers implementation of this bill as routine, and does not require additional funding.

   Revenue Impact

   The sales tax exemption proposed in this bill is estimated to reduce revenues by $17,100 in Fiscal Year 2009, $19,700 in Fiscal Year 2010, $20,600 in Fiscal Year 2011, $21,300 in Fiscal Year 2012, $22,300 in Fiscal Year 2013, and $22,900 in Fiscal Year 2014. The revenue estimates were made based on sales data for 4-H Clubs maintained by TAX. The revenue estimates set forth here could potentially be overstated, as TAX could not determine whether all of the sales reported took place during a fundraising activity. In addition, TAX could not determine whether the items sold constituted food purchased for human consumption (which is taxed at a lower rate than other tangible personal property) or other items.

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

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

11. Other comments:

History of Virginia Exemption Process for Nonprofit Entities

Prior to July 1, 2004, the Code of Virginia separately listed and provided a sales tax exemption for purchases of tangible personal property 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 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 could 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.

Since inception of the new process for nonprofit entities, certain organizations that once were eligible for an exemption are no longer eligible under the new process. Sunset provisions were made part of the exemption available under the old process. Organizations that do not meet the criteria set forth for nonprofit exemptions under the new process will have their exemptions expire, according to the expiration dates given under the old law.

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 performed by an independent certified public accountant, if its gross annual revenues for the previous year were $1 million or greater. A nonprofit organization with gross annual revenues between $750,000 and $1 million in the previous year is given the choice of providing either a full financial audit or a "financial review", both of which must be performed by an independent certified public accountant.

Proposal

This bill would authorize 4-H Clubs not to collect the Retail Sales and Use Tax on sales made for fundraising. In order to be eligible for an exemption from collecting the sales tax, the 4-H Club would be required to file an application with TAX, meet the necessary criteria for obtaining a nonprofit exemption on purchases of tangible personal property, and be subsequently issued a certificate of exemption for these purchases. 4-H organizations that currently hold an exemption certificate for the purchase of tangible personal property would be entitled an exemption from collecting the sales tax on sales made for fundraising as soon as this bill became effective.

Similar Legislation

Senate Bill 543 would exempt any non-profit school that is accredited by any entity approved by the Department of Education and any school licensed by the Department of Education as a school for students with disabilities from the requirement to submit an audit to TAX to obtain a sales and use tax exemption, if the school submits a federal 990 tax form.

cc : Secretary of Finance

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