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HOUSE BILL NO. 1352

Offered January 14, 2015

Prefiled December 2, 2014

A BILL to amend and reenact § 58.1-3732 of the Code of Virginia, relating to deductions from gross receipts for the purpose of computing the local license tax.

Patrons—Ramadan, Head, Taylor and Webert

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-3732 of the Code of Virginia is amended and reenacted as follows:****§ 58.1-3732. Exclusions and deductions from "gross receipts."**

A. Gross receipts for license tax purposes shall not include any amount not derived from the exercise of the licensed privilege to engage in a business or profession in the ordinary course of business.

The following items are excluded:

1. Amounts received and paid to the United States, the Commonwealth or any county, city or town for the Virginia retail sales or use tax, for any local sales tax or any local excise tax on cigarettes, or amounts received for any federal or state excise taxes on motor fuels.

2. Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e.g., the factoring of accounts receivable created by sales which have been included in taxable receipts even though the creation of such debt and factoring are a regular part of its business).

3. Any amount representing returns and allowances granted by the business to its customers.

4. Receipts which are the proceeds of a loan transaction in which the licensee is the obligor.

5. Receipts representing the return of principal of a loan transaction in which the licensee is the creditor, or the return of principal or basis upon the sale of a capital asset.

6. Rebates and discounts taken or received on account of purchases by the licensee. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror, and which the recipient assigns to the licensee in consideration of the sale goods and services shall not be considered a rebate or discount to the licensee, but shall be included in the licensee's gross receipts together with any handling or other fees related to the incentive.

7. Withdrawals from inventory for purposes other than sale or distribution and for which no consideration is received and the occasional sale or exchange of assets other than inventory whether or not a gain or loss is recognized for federal income tax purposes.

8. Investment income not directly related to the privilege exercised by a business subject to licensure not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business, and to interest, dividends and other income derived from the investment of its own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.

B. The following shall be deducted from gross receipts or gross purchases that would otherwise be taxable:

1. Any amount paid for computer hardware and software that are sold to a United States federal or state government entity provided that such property was purchased within two years of the sale to said entity by the original purchaser who shall have been contractually obligated at the time of purchase to resell such property to a state or federal government entity. This deduction shall not occur until the time of resale and shall apply to only the original cost of the property and not to its resale price, and the deduction shall not apply to any of the tangible personal property which was the subject of the original resale contract if it is not resold to a state or federal government entity in accordance with the original contract obligation.

2. Any receipts attributable to business conducted in another state or foreign country in which the taxpayer (or its shareholders, partners or members in lieu of the taxpayer) is liable for an income or other tax based upon income.

3. Beginning with license year 2016 and for all license years thereafter, to the extent not already excluded or deducted from gross receipts, the licensee shall be allowed to deduct amounts paid by the licensee during the taxable period to another person who is not an employee of the licensee pursuant to a subcontract between the licensee and such other person.

2. That the Tax Commissioner shall develop and make publicly available guidelines implementing

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59 the provisions of this act. Such guidelines shall be exempt from the provisions of the
60 Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).