

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 58.1-623 of the Code of Virginia, relating to sales and use tax; refunds.*

3 [H 398]

4 Approved

5 **Be it enacted by the General Assembly of Virginia:**6 **1. That § 58.1-623 of the Code of Virginia is amended and reenacted as follows:**7 **§ 58.1-623. Sales or leases presumed subject to tax; exemption certificates.**8 A. All sales or leases are subject to the tax until the contrary is established. The burden of proving
9 that a sale, distribution, lease, or storage of tangible personal property is not taxable is upon the dealer
10 unless he takes from the taxpayer a certificate to the effect that the property is exempt under this
11 chapter.12 B. The certificate mentioned in this section shall relieve the person who takes such certificate from
13 any liability for the payment or collection of the tax, except upon notice from the Tax Commissioner
14 that such certificate is no longer acceptable. Such certificate shall be signed by and bear the name and
15 address of the taxpayer; shall indicate the number of the certificate of registration, if any, issued to the
16 taxpayer; shall indicate the general character of the tangible personal property sold, distributed, leased,
17 or stored, or to be sold, distributed, leased, or stored under a blanket exemption certificate; and shall be
18 substantially in such form as the Tax Commissioner may prescribe. If an exemption pertains to a
19 nonprofit organization, other than a nonprofit church, that has qualified for a sales and use tax
20 exemption under § 58.1-609.11, the exemption certificate shall be valid until the scheduled expiration
21 date stated on the exemption certificate.22 C. If a taxpayer who gives a certificate under this section makes any use of the property other than
23 an exempt use or retention, demonstration, or display while holding the property for resale, distribution,
24 or lease in the regular course of business, such use shall be deemed a taxable sale by the taxpayer as of
25 the time the property or service is first used by him, and the cost of the property to him shall be
26 deemed the sales price of such retail sale. If the sole use of the property other than retention,
27 demonstration, or display in the regular course of business is the rental of the property while holding it
28 for sale, distribution, or lease, the taxpayer may elect to pay the tax on the amount of the rental charged,
29 rather than the cost of the property to him.30 D. If a taxpayer gives a certificate under this section with respect to the purchase of fungible goods
31 and thereafter commingles these goods with other fungible goods not so purchased, but of such
32 similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales
33 or distributions from the mass of commingled goods shall be deemed to be sales or distributions of the
34 goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so
35 commingled has been sold or distributed.36 E. *If a taxpayer fails to give the dealer at the time of purchase an exemption certificate previously*
37 *issued by the Department, no interest shall be paid on a subsequent refund claim for any period prior*
38 *to the date the taxpayer makes a complete refund claim with the Department. This subsection shall not*
39 *apply to transactions exempted under self-executing certificates of exemption not issued to a specific*
40 *taxpayer by the Department.*41 **2. That the Department of Taxation may promulgate guidelines implementing the provisions of**
42 **this act and update such guidelines thereafter as deemed necessary by the Tax Commissioner. The**
43 **development and publication of such guidelines shall be exempt from the Administrative Process**
44 **Act (§ 2.2-4000 et seq.) of the Code of Virginia.**

ENROLLED

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