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SENATE BILL NO. 1350

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on January 25, 2017)

(Patron Prior to Substitute—Senator Deeds)

*A BILL to amend and reenact §§ 58.1-2403 and 58.1-2423 of the Code of Virginia, relating to motor vehicle sales and use tax; refund.***Be it enacted by the General Assembly of Virginia:****1. That §§ 58.1-2403 and 58.1-2423 of the Code of Virginia are amended and reenacted as follows:
§ 58.1-2403. Exemptions.**

No tax shall be imposed as provided in § 58.1-2402 if the vehicle is:

1. Sold to or used by the United States government or any governmental agency thereof;
2. Sold to or used by the Commonwealth of Virginia or any political subdivision thereof;
3. Registered in the name of a volunteer fire department or volunteer emergency medical services agency not operated for profit;
4. Registered to any member of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or any other recognized Indian tribe of the Commonwealth living on the tribal reservation;
5. Transferred incidental to repossession under a recorded lien and ownership is transferred to the lienholder;
6. A manufactured home permanently attached to real estate and included in the sale of real estate;
7. A gift to the spouse, son, daughter, or parent of the transferor. With the exception of a gift to a spouse, this exemption shall not apply to any unpaid obligation assumed by the transferee incidental to the transfer;
8. Transferred from an individual or partnership to a corporation or limited liability company or from a corporation or limited liability company to an individual or partnership if the transfer is incidental to the formation, organization or dissolution of a corporation or limited liability company in which the individual or partnership holds the majority interest;
9. Transferred from a wholly owned subsidiary to the parent corporation or from the parent corporation to a wholly owned subsidiary;
10. Being registered for the first time in the Commonwealth and the applicant holds a valid, assignable title or registration issued to him by another state or a branch of the United States Armed Forces and (i) has owned the vehicle for longer than 12 months or (ii) has owned the vehicle for less than 12 months and provides evidence of a sales tax paid to another state. However, when a vehicle has been purchased by the applicant within the last 12 months and the applicant is unable to provide evidence of a sales tax paid to another state, the applicant shall pay the Virginia sales tax based on the fair market value of the vehicle at the time of registration in Virginia;
11. a. Titled in a Virginia or non-Virginia motor vehicle dealer's name for resale; or
b. Titled in the name of an automotive manufacturer having its headquarters in Virginia, except for any commercially leased vehicle that is not described under subdivision 3 of § 46.2-602.2. For purposes of this subdivision, "automotive manufacturer" and "headquarters" means the same as such terms are defined in § 46.2-602.2;
12. A motor vehicle having seats for more than seven passengers and sold to an urban or suburban bus line the majority of whose passengers use the buses for traveling a distance of less than 40 miles, one way, on the same day;
13. Purchased in the Commonwealth by a nonresident and a Virginia title is issued for the sole purpose of recording a lien against the vehicle if the vehicle will be registered in a state other than Virginia;
14. A motor vehicle designed for the transportation of 10 or more passengers, purchased by and for the use of a church conducted not for profit;
15. Loaned or leased to a private nonprofit institution of learning, for the sole purpose of use in the instruction of driver's education when such education is a part of such school's curriculum for full-time students;
16. Sold to an insurance company or local government group self-insurance pool, created pursuant to § 15.2-2703, for the sole purpose of disposition when such company or pool has paid the registered owner of such vehicle a total loss claim;
17. Owned and used for personal or official purposes by accredited consular or diplomatic officers of foreign governments, their employees or agents, and members of their families, if such persons are nationals of the state by which they are appointed and are not citizens of the United States;
18. A self-contained mobile computerized axial tomography scanner sold to, rented or used by a

60 nonprofit hospital or a cooperative hospital service organization as described in § 501(e) of the United
61 States Internal Revenue Code;

62 19. A motor vehicle having seats for more than seven passengers and sold to a restricted common
63 carrier or common carrier of passengers;

64 20. Beginning July 1, 1989, a self-contained mobile unit designed exclusively for human diagnostic
65 or therapeutic service, sold to, rented to, or used by a nonprofit hospital, or a cooperative hospital
66 service organization as described in § 501(e) of the United States Internal Revenue Code, or a nonprofit
67 corporation as defined in § 501(c)(3) of the Internal Revenue Code, established for research in, diagnosis
68 of, or therapy for human ailments;

69 21. Transferred, as a gift or through a sale to an organization exempt from taxation under § 501(c)(3)
70 of the Internal Revenue Code, provided the motor vehicle is not titled and tagged for use by such
71 organization;

72 22. A motor vehicle sold to an organization which is exempt from taxation under § 501(c)(3) of the
73 Internal Revenue Code and which is organized for the primary purpose of distributing food, clothing,
74 medicines, and other necessities of life to, and providing shelter for, needy persons in the United States
75 and throughout the world;

76 23. Transferred to the trustees of a revocable inter vivos trust, when the individual titleholder of a
77 Virginia titled motor vehicle and the beneficiaries of the trust are the same persons, regardless of
78 whether other beneficiaries of the trust may also be named in the trust instrument, when no
79 consideration has passed between the titleholder and the beneficiaries; and transferred to the original
80 titleholder from the trustees holding title to the motor vehicle;

81 24. Transferred to trustees of a revocable inter vivos trust, when the owners of the vehicle and the
82 beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be
83 named in the trust instrument, or transferred by trustees of such a trust to beneficiaries of the trust
84 following the death of the grantor, when no consideration has passed between the grantor and the
85 beneficiaries in either case;

86 25. Sold by a vehicle's lessor to its lessee upon the expiration of the term of the vehicle's lease, if
87 the lessee is a natural person and this natural person has paid the tax levied pursuant to this chapter with
88 respect to the vehicle when he leased it from the lessor, and if the lessee presents an original copy of
89 the lease upon request of the Department of Motor Vehicles or other evidence that the sales tax has
90 been paid to the Commonwealth by the lessee purchasing the vehicle;

91 26. Titled in the name of a deceased person and transferred to the spouse or heir, or under the will,
92 of such deceased person;

93 27. An all-terrain vehicle, moped, or off-road motorcycle all as defined in § 46.2-100. Such
94 all-terrain vehicles, mopeds, or off-road motorcycles shall not be deemed a motor vehicle or other
95 vehicle subject to the tax imposed under this chapter; or

96 28. A motor vehicle that is sold to an organization that is exempt from taxation under § 501(c)(3) of
97 the Internal Revenue Code and that is primarily used by the organization to transport to markets for sale
98 produce that is (i) produced by local farmers and (ii) sold by such farmers to the organization; or

99 29. *Transferred from the purchaser of the vehicle back to the seller of the vehicle who (i) accepted*
100 *the vehicle pursuant to the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.) or*
101 *(ii) otherwise agreed to accept the return of the vehicle due to a mechanical defect or failure and*
102 *refunded to the purchaser the purchase price of the vehicle. Except when the return of the vehicle is*
103 *pursuant to the Virginia Motor Vehicle Warranty Enforcement Act, the transfer shall occur within 45*
104 *days of the date of purchase.*

105 **§ 58.1-2423. Refunds generally.**

106 In the event ~~that it shall appear~~ *appears* to the satisfaction of the Commissioner that any tax imposed
107 by this chapter has been erroneously or illegally collected from any person or paid by any person, the
108 Commissioner shall certify the amount thereof to the Comptroller, who shall thereupon draw his warrant
109 for such certified amount on the State Treasurer. Such refund shall be paid by the State Treasurer. A
110 claimant who pays the tax, either for the claimant or for the benefit of another on whose behalf the tax
111 is paid, shall make a sufficient showing that the tax was erroneously collected by providing an affidavit
112 stating that (i) the vehicle identification information provided on the Application for Certificate of Title
113 and Registration, the certificate of origin, manufacturer's statement of origin, or title, as the case may be,
114 forwarded to the Department of Motor Vehicles by any means generally allowed was incorrect; or (ii)
115 the transaction would have been exempt from taxation had the titling documents been correct when
116 submitted to the Department of Motor Vehicles and the tax was paid in error. In the event of such a
117 showing, the refund shall be paid to the claimant.

118 *In the event that it appears to the satisfaction of the Commissioner that any tax imposed by this*
119 *chapter has been collected from a person who purchased and returned a vehicle pursuant to the*
120 *Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.), the Commissioner shall certify*
121 *the amount thereof to the Comptroller, who shall thereupon draw his warrant for such certified amount*

on the State Treasurer. Such refund shall be paid by the State Treasurer. A claimant who pays the tax, either for the claimant or for the benefit of another on whose behalf the tax is paid, shall provide a written statement in a manner prescribed by the Commissioner stating that the vehicle was returned under the Virginia Motor Vehicle Warranty Enforcement Act.

In the event that it appears to the satisfaction of the Commissioner that any tax imposed by this chapter has been collected from a person who purchased and within 45 days returned a vehicle not subject to the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.) due to a mechanical defect or failure and received a refund of the purchase price, the Commissioner shall certify the amount thereof to the Comptroller, who shall thereupon draw his warrant for such certified amount on the State Treasurer. Such refund shall be paid by the State Treasurer. A claimant who pays the tax, either for the claimant or for the benefit of another on whose behalf the tax is paid, shall provide an affidavit stating that the vehicle was returned due to a mechanical defect or failure, the purchase price was refunded, the title was properly assigned to the person accepting return of the vehicle, and the purchaser no longer has possession of the vehicle.

In the event that it ~~shall appear~~ appears to the satisfaction of the Commissioner that the tax imposed by this chapter was upon a motor vehicle purchased by a foreign national and that within six months after the date of purchase the motor vehicle has been exported to a foreign country, the Commissioner shall certify the amount to the Comptroller who shall thereupon draw his warrant for such certified amount on the State Treasurer. Such refund shall be paid by the State Treasurer.

No refund shall be made under the provisions of this section unless a written statement is filed with the Commissioner setting forth the reason such refund is claimed. The claim shall be in such form as the Commissioner shall prescribe. It shall be filed with the Commissioner within three years from the date of the payment of the tax.