

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 30-19.05 of the Code of Virginia, relating to legislative consideration of*  
 3 *exemptions from the retail sales and use tax.*

4 [H 914]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 30-19.05 of the Code of Virginia is amended and reenacted as follows:**

8 § 30-19.05. Legislative consideration of exemptions from the retail sales and use tax.

9 A. When any legislation involving an exemption or exclusion from the retail sales and use tax  
 10 pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1 is expected to be submitted to the General  
 11 Assembly during its next regular session, the patron shall submit to the Department of Taxation by  
 12 November 1 the following information:

13 1. Estimate of state and local revenues which will be foregone as a direct result of the exemption;

14 2. Beneficiaries of the exemption;

15 3. Direct or indirect local, state or federal government assistance received by the person seeking  
 16 exemption;17 4. The extent to which the person, property, service or industry is exempt from the retail sales and  
 18 use tax in other states;

19 5. Any external statutory, constitutional or judicial mandates in favor of the exemption;

20 6. Other state taxes to which the person, property, service or industry is subject;

21 7. Similar taxpayers who are not entitled to a retail sales and use tax exemption; and

22 8. Other criteria, facts or circumstances which may be relevant to the request for exemption.

23 B. In addition, organizations seeking an exemption under the categories of educational (§ 58.1-609.4),  
 24 medical-related (§ 58.1-609.7), civic and community service (§ 58.1-609.8), and cultural (§ 58.1-609.9)  
 25 shall submit the following information:

26 1. Exemption from federal income taxation under either § 501 (c) (3) or § 501 (c) (4) of the Internal  
 27 Revenue Code, as evidenced by a ruling or other such documentation;28 2. The charitable purpose or purposes for which the entity is organized and operated, and the  
 29 charitable functions and services it exists to deliver, provided to Virginia citizens, along with an  
 30 explanation of such services;31 3. Proof that no more than one-third of the organization's gross annual revenue, under generally  
 32 accepted accounting principles, is spent on general administration and fundraising;

33 4. The location of the organization's financial records available for public inspection and certification  
 34 that such records are true, accurate, and complete. Salaries, including all benefits, of the five most  
 35 highly compensated employees shall be specifically disclosed. Organizations whose gross annual revenue  
 36 is \$250,000 or greater shall be subject to an annual financial audit performed by an independent  
 37 certified public accountant. Such audit report or reports shall be attached to the organization's application  
 38 for tax exempt status;

39 5. Proof of compliance with Chapter 5 (§ 57-48 et seq.) of Title 57 of the Code of Virginia from  
 40 organizations subject to it;

41 6. A volunteer board of directors with names and addresses provided.

42 Unless the General Assembly has enacted an exemption category or classification without regard to  
 43 an organization's compliance with the above six items, requirements of items 1 and 3 constitute a  
 44 continuing obligation and condition for maintaining tax exempt status *for sales and use tax purposes*,  
 45 and the failure to do so may constitute grounds for the revocation of such status. Under circumstances  
 46 evidencing a willful disregard or misuse of such tax exempt status, revocation back to the date of  
 47 noncompliance, subject to the applicable statute of limitations, may be the appropriate sanction. No such  
 48 retroactive revocation shall be implemented unless the Tax Commissioner has first utilized the procedure  
 49 prescribed in § 58.1-623.1 A.

50 The Department of Taxation shall issue a preliminary determination, by January 5 prior to the  
 51 session in which the exemption is sought, that the organization has furnished all of the information  
 52 required by this section. If such information is incomplete, the Department shall explain the nature of  
 53 the deficiencies.

54 C. Nothing contained in subsection A shall prevent the enactment of an exemption without receipt of  
 55 the required information when the legislation is specifically requested by the Governor, or is otherwise  
 56 considered to be of such a nature that the chairman of the committee determines that the information is

57 not required.

58 D. The Secretary of Finance shall investigate and analyze the fiscal, economic and policy impact of  
 59 each exemption category set out in §§ 58.1-609.1 through 58.1-609.10. The Secretary shall report the  
 60 findings to the House and Senate Finance Committees each year by December 1, and shall report on  
 61 two exemption categories each year and every five years thereafter, beginning with the 1990 Session of  
 62 the General Assembly according to the following schedule:

63	64	65	66	67	68	69	70	71	72	73	74
	Category										Year
	§ 58.1-609.1.	Government and Commodities									1990
	§ 58.1-609.2.	Agricultural									1990
	§ 58.1-609.3.	Commercial and Industrial									1991
	§ 58.1-609.4.	Educational									1991
	§ 58.1-609.5.	Services									1992
	§ 58.1-609.6.	Media-Related									1992
	§ 58.1-609.7.	Medical-Related									1993
	§ 58.1-609.8.	Civic and Community Service									1993
	§ 58.1-609.9.	Cultural									1994
	§ 58.1-609.10.	Miscellaneous									1994

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 76 No exemption category shall be studied under the provisions of this subsection more frequently than  
 77 once every five years. The information required in subsections A and B shall be updated and submitted  
 78 to the Department of Taxation by the organizations being studied every five years. Such information  
 79 shall be due by July 1 prior to the December 1 deadline when the Secretary reports his findings to the  
 80 House and Senate Finance Committees.

81 E. For purposes of this section, the Department of Taxation and the Department of Agriculture and  
 82 Consumer Services shall be allowed to share information when necessary to supplement the information  
 83 required.