DEPARTMENT OF TAXATION
2024 Fiscal Impact Statement

1. **Patron** Chris S. Runion
2. **Bill Number** HB 464
   House of Origin:
   __X__ **Introduced**
   _____ **Substitute**
   _____ **Engrossed**

   Second House:
   _____ **In Committee**
   _____ **Substitute**
   _____ **Enrolled**
3. **Committee** House Finance
4. **Title** Retail sales and use tax; Exemptions for nonprofit entities

5. **Summary/Purpose:**

   This bill would increase the minimum threshold for gross annual revenue of a nonprofit entity that allows the Department of Taxation ("the Department") to require such entity to provide a financial audit before receiving a Retail Sales and Use Tax exemption to $2 million. The bill would also require that, beginning January 1, 2025, and every subsequent five years, the $2 million threshold be adjusted according to the Consumer Price Index for food and beverages, all urban consumers ("CPI-U") for the previous five-year period.

   Under current law, the minimum gross annual revenue threshold to require nonprofit entities to provide a financial audit before receiving a Retail Sales and Use Tax exemption is $1 million.

   If enacted during the regular session of the 2024 General Assembly this bill would become effective July 1, 2024.

6. **Budget amendment necessary:** No.

7. **No Fiscal Impact.** (See Line 8.)

8. **Fiscal implications:**

   <u>Administrative Costs</u>

   The Department considers implementation of this bill to be routine and does not require additional funding. This bill would have no impact on local administrative costs.

   <u>Revenue Impact</u>

   This bill would have no impact on state or local revenues. The increase in gross annual revenue threshold in the bill would affect the financial audit requirement with respect to approximately 116 nonprofit entities. Those entities would still, however, be required to provide a financial review performed by a certified public accountant because their gross annual revenue would exceed $750,000.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes
Line 68: after *at* strike *$1*
Line 68: after *at* insert *$2*

11. Other comments:

History of Virginia Sales Tax Exemption Process for Nonprofit Entities

Prior to July 1, 2004, the *Code of Virginia* separately listed and provided a sales tax exemption for over 180 categories of nonprofit 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 the Department, meeting applicable criteria, and being issued a certificate of exemption from the Department. 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 they met the applicable criteria and performed all the necessary procedures. If all requirements were met, the Department 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.

Retail Sales and Use Tax, Generally

Currently, nonprofit entities exempt from federal income tax under Internal Revenue Code ("I.R.C.") §§ 501(c)(3) or (c)(4) may obtain an exemption from the Virginia Retail Sales and Use Tax on their purchases of tangible personal property, provided they: 1) file an appropriate application with the Department; 2) meet the applicable criteria; and 3) are issued a certificate of exemption from the Department. The exemption is available only to nonprofit entities that have been designated as I.R.C. § 501(c)(3) organizations or, I.R.C. § 501(c)(4) organizations that have been organized for a charitable purpose; or entities with annual gross receipts of less than $5,000 that are organized for one of the purposes set forth in I.R.C. § 501(c)(3) or one of the charitable purposes under I.R.C. § 501(c)(4).

Current Nonprofit Requirements

The exemption process requires that nonprofit organizations meet the following criteria to be eligible for exemption:

- The entity must be an organization exempt under I.R.C. § 501(c)(3) or, if organized for a charitable purpose, I.R.C. § 501(c)(4), or have annual gross receipts of less than $5,000 and be organized for one of the purposes set forth in I.R.C. § 501(c)(3) or one of the charitable purposes set forth in I.R.C. § 501(c)(4).
- 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 the Department with an estimate of its total taxable purchases.
- The entity must provide the Department with a copy of its federal Form 990 or a list of its board of directors.
- The entity must provide the Department with a full financial review performed by an independent certified public accountant if its gross annual revenue was at least $750,000 in the previous year. For nonprofit organizations with gross annual revenues of at least $1 million, the Department may require that the entity provide a full financial audit performed by an independent certified public accountant in lieu of a financial review.

Proposal

This bill would increase the minimum threshold for gross revenue of a nonprofit entity that allows the Department to require such entity to provide a financial audit before receiving a Retail Sales and Use Tax exemption to $2 million. The bill would also require that, beginning January 1, 2025, and every subsequent five years, the $2 million threshold be adjusted according to the CPI-U for the previous five-year period.

If enacted during the regular session of the 2024 General Assembly this bill would become effective July 1, 2024.

cc : Secretary of Finance

Date: 2/2/2024 VB
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