

1995 RECONVENED SESSION

ENROLLED

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 58.1-609.3, 58.1-609.6, 58.1-609.8, and 58.1-609.10 of the Code of Virginia, relating to sales and use tax exemptions.

[H 1512]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-609.3, 58.1-609.6, 58.1-609.8, and 58.1-609.10 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-609.3. Commercial and industrial exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Personal property purchased by a contractor which is used solely in another state or in a foreign country, which could be purchased by such contractor for such use free from sales tax in such other state or foreign country, and which is stored temporarily in Virginia pending shipment to such state or country.

2. (i) Industrial materials for future processing, manufacturing, refining, or conversion into articles of tangible personal property for resale where such industrial materials either enter into the production of or become a component part of the finished product; (ii) industrial materials that are coated upon or impregnated into the product at any stage of its being processed, manufactured, refined, or converted for resale; (iii) machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy, or supplies, used directly in processing, manufacturing, refining, mining or converting products for sale or resale; (iv) materials, containers, labels, sacks, cans, boxes, drums or bags for future use for packaging tangible personal property for shipment or sale; or (v) equipment, printing or supplies used directly to produce a publication described in subdivision 3 of § 58.1-609.6 whether it is ultimately sold at retail or for resale or distribution at no cost. Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the preponderance of their use is directly in processing, manufacturing, refining, mining or converting products for sale or resale. The provisions of this subsection do not apply to the drilling, extraction, refining, or processing of oil, gas, natural gas and coalbed methane gas.

3. Tangible personal property sold or leased to (i) a public service corporation subject to a state franchise or license tax upon gross receipts, (ii) a telecommunications company as defined in § 58.1-400.1 or (iii) a telephone company chartered in the Commonwealth which is exclusively a local mutual association and is not designated to accumulate profits for the benefit of, or to pay dividends to, the stockholders or members thereof, for use or consumption by such corporation, company, person or mutual association directly in the rendition of its public service; and tangible personal property sold or leased to a public service corporation engaged in business as a common carrier of property or passengers by motor vehicle or railway, for use or consumption by such common carrier directly in the rendition of its public service.

4. Ships or vessels, or repairs and alterations thereof, used or to be used exclusively or principally in interstate or foreign commerce; fuel and supplies for use or consumption aboard ships or vessels plying the high seas, either in intercoastal trade between ports in the Commonwealth and ports in other states of the United States or its territories or possessions, or in foreign commerce between ports in the Commonwealth and ports in foreign countries, when delivered directly to such ships or vessels; or tangible personal property used directly in the building, conversion or repair of the ships or vessels covered by this subdivision.

5. Tangible personal property purchased for use or consumption directly and exclusively in basic research or research and development in the experimental or laboratory sense.

6. Tangible personal property sold or leased to an airline operating in intrastate, interstate or foreign commerce as a common carrier providing scheduled air service, as defined in § 58.1-1501, on a continuing basis to one or more Virginia airports for use or consumption by such airline directly in the rendition of its common carrier service.

7. Meals furnished by restaurants or food service operators to employees as a part of wages.

8. Tangible personal property including machinery and tools, repair parts or replacements thereof, and supplies and materials used directly in maintaining and preparing textile products for rental or leasing by an industrial processor engaged in the commercial leasing or renting of laundered textile products.

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57 9. (i) Certified pollution control equipment and facilities as defined in § 58.1-3660; and (ii) Effective
 58 retroactive to July 1, 1994, and through June 30, 1996, certified pollution control equipment and
 59 facilities as defined in § 58.1-3660 and which, in accordance with such section, has been certified by the
 60 Department of Mines, Minerals and Energy for coal, oil and gas production, including gas, natural gas,
 61 and coalbed methane gas.

62 10. Parts, tires, meters and dispatch radios sold or leased to taxicab operators for use or consumption
 63 directly in the rendition of their services.

64 11. High speed electrostatic duplicators or any other duplicators which have a printing capacity of
 65 4,000 impressions or more per hour purchased or leased by persons engaged primarily in the printing or
 66 photocopying of products for sale or resale.

67 12. From July 1, 1994, through June 30, 1996, raw materials, fuel, power, energy, supplies,
 68 machinery or tools or repair parts therefor or replacements thereof, used directly in the drilling,
 69 extraction, refining, or processing of natural gas or oil and the reclamation of the well area. For the
 70 purposes of this section, the term "natural gas" shall mean "gas," "natural gas," and "coalbed methane
 71 gas" as defined in § 45.1-361.1. For the purposes of this section, "drilling," "extraction," "refining," and
 72 "processing" shall include production, inspection, testing, dewatering, dehydration, or distillation of raw
 73 natural gas into a usable condition consistent with commercial practices, and the gathering and
 74 transportation of raw natural gas to a facility wherein the gas is converted into such a usable condition.
 75 Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the
 76 preponderance of their use is directly in the drilling, extraction, refining, or processing of natural gas or
 77 oil for sale or resale, or in well area reclamation activities required by state or federal law.

78 § 58.1-609.6. Media-related exemptions.

79 The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606
 80 shall not apply to the following:

81 1. Leasing, renting or licensing of copyright audio or video tapes, and films for public exhibition at
 82 motion picture theaters or by licensed radio and television stations.

83 2. Broadcasting equipment and parts and accessories thereto and towers used or to be used by
 84 commercial radio and television companies, cable television systems, *common carriers or video*
 85 *programmers using a video dialtone platform*, or concerns which are under the regulation and
 86 supervision of the Federal Communications Commission and amplification, transmission and distribution
 87 equipment used or to be used by cable television systems *or video dialtone systems*.

88 3. Any publication issued daily, or regularly at average intervals not exceeding three months, and
 89 advertising supplements and any other printed matter ultimately distributed with or as part of such
 90 publications; however, newsstand sales of the same are taxable.

91 4. Catalogs, letters, brochures, reports, and similar printed materials, except administrative supplies,
 92 the envelopes, containers and labels used for packaging and mailing same, and paper furnished to a
 93 printer for fabrication into such printed materials, when stored for twelve months or less in the
 94 Commonwealth and distributed for use without the Commonwealth. As used in this subdivision,
 95 "administrative supplies" includes, but is not limited to, letterhead, envelopes, and other stationery; and
 96 invoices, billing forms, payroll forms, price lists, time cards, computer cards, and similar supplies.
 97 Notwithstanding the provisions of subdivision 5 of this section or the definition of "advertising"
 98 contained in § 58.1-602, any advertising business located outside the Commonwealth which purchases
 99 printing from a printer within the Commonwealth shall not be deemed the user or consumer of the
 100 printed materials when such purchases would have been exempt under this subdivision.

101 5. Advertising as defined in § 58.1-602.

102 6. From July 1, 1995, through June 30, 1997,

103 a. (i) *The lease, rental, license, sale, other transfer, or use of any audio or video tape, film or other*
 104 *audiovisual work where the transferee or user acquires or has acquired the work for the purpose of*
 105 *licensing, distributing, broadcasting, commercially exhibiting or reproducing the work or using or*
 106 *incorporating the work into another such work; (ii) the provision of production services or fabrication*
 107 *in connection with the production of any portion of such audiovisual work, including, but not limited to,*
 108 *scriptwriting, photography, sound, musical composition, special effects, animation, adaptation, dubbing,*
 109 *mixing, editing, cutting and provision of production facilities or equipment; or (iii) the transfer or use of*
 110 *tangible personal property, including, but not limited to, scripts, musical scores, storyboards, artwork,*
 111 *film, tapes and other media, incident to the performance of such services or fabrication; however,*
 112 *audiovisual works and incidental tangible personal property described in clauses a (i) and a (iii) shall*
 113 *be subject to tax as otherwise provided in this chapter to the extent of the value of their tangible*
 114 *components prior to their use in the production of any audiovisual work and prior to their enhancement*
 115 *by any production service; and*

116 b. *Equipment and parts and accessories thereto used or to be used in the production of such*
 117 *audiovisual works.*

118 § 58.1-609.8. Nonprofit civic and community service exemptions.

119 The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606
120 shall not apply to the following:

121 1. Tangible personal property purchased for use or consumption by or sold by a volunteer fire
122 department or volunteer rescue squad, an auxiliary or junior organization of such department or squad
123 not conducted for profit, a nonprofit association of which the regular membership is composed of such
124 volunteer fire departments or volunteer rescue squads, and construction materials to be incorporated into
125 realty when sold to and used by such organization, rather than a contractor, in construction,
126 maintenance, or repair of any property of such organization.

127 2. Tangible personal property, except property used in any form of recording and reproducing
128 services, purchased by churches organized not for profit and which are exempt from taxation under
129 § 501 (c) (3) of the Internal Revenue Code, or whose real property is exempt from local taxation
130 pursuant to the provisions of § 58.1-3606, for use (i) in religious worship services by a congregation or
131 church membership while meeting together in a single location and (ii) in the libraries, offices, meeting
132 or counseling rooms or other rooms in the public church buildings used in carrying out the work of the
133 church and its related ministries, including kindergarten, elementary and secondary schools. The
134 exemption for such churches shall also include baptistries; bulletins, programs, newspapers and
135 newsletters which do not contain paid advertising and are used in carrying out the work of the church;
136 gifts *including food* for distribution outside the public church building; and food, disposable serving
137 items, cleaning supplies and teaching materials used in the operation of camps or conference centers by
138 the church or an organization composed of churches that are exempt under this subdivision and which
139 are used in carrying out the work of the church or churches.

140 3. Tangible personal property sold or leased for use in nonprofit nutrition programs for the elderly
141 qualifying under 42 U.S.C. § 3030 (e) through (g), as amended, as administered by the Virginia
142 Department for the Aging, and the food and food products sold under such programs to elderly persons
143 and the food and food products sold by such program participants to disabled or handicapped persons
144 under the age of sixty.

145 4. Tangible personal property bought, sold or used by Virginia Federation of Humane Societies or
146 any chartered, not-for-profit organization incorporated under the laws of this Commonwealth and
147 organized for the purpose of preventing cruelty to animals and promoting humane care of animals, when
148 such property is used for the operation of such organizations or the construction or maintenance of
149 animal shelters.

150 5. Tangible personal property withdrawn from inventory and donated to (i) an organization exempt
151 from taxation under § 501 (c) (3) of the Internal Revenue Code or (ii) the Commonwealth, any political
152 subdivision of the Commonwealth, or any school, agency or instrumentality thereof.

153 6. Tangible personal property purchased by an organization which is exempt from taxation under
154 § 501 (c) (3) of the Internal Revenue Code and which is organized primarily to distribute, during the
155 Christmas season, food, toys, and clothing to persons in financial need, provided such tangible personal
156 property is distributed at no cost to financially needy persons.

157 7. Tangible personal property, including food and food products, purchased for use or consumption
158 by a residential youth shelter organization exempt from taxation under § 501 (c) (3) of the Internal
159 Revenue Code, provided such organization is organized exclusively for maintaining and operating group
160 homes for the shelter and care of abused and neglected children in the Commonwealth on a long-term or
161 short-term basis.

162 8. Tangible personal property purchased for use or consumption by an organization exempt from
163 taxation under § 501 (c) (3) of the Internal Revenue Code and organized exclusively for the purpose of
164 providing education, training, services, and assistance in independent living to foster care children and
165 youth without families.

166 9. Tangible personal property for use or consumption by, sold by or donated to a food bank or
167 organization exempt from taxation pursuant to § 501 (c) (3) of the Internal Revenue Code and organized
168 exclusively for the distribution of foods to infants, the ill, or the needy; the exemptions shall apply to
169 each transaction in the chain of commerce from manufacture to final disposition, provided that such
170 food bank or organization is not conducted for profit.

171 10. Tangible personal property for use or consumption by a licensed nonprofit adult care residence as
172 defined in § 63.1-172 or a licensed nonprofit adult day-care center as defined in § 63.1-194.1.

173 11. From July 1, 1989, through June 30, 1998, tangible personal property purchased for use or
174 consumption by or sold by a nonstock, nonprofit charitable organization, exempt from taxation under
175 § 501 (c) (3) of the Internal Revenue Code and from local real estate taxation, which is organized
176 exclusively to foster, sponsor and promote physical education, athletic programs and contests for youths
177 in the Commonwealth.

178 12. From July 1, 1989, through June 30, 1998, tangible personal property purchased for use or

179 consumption by a shelter for homeless individuals operated by an organization exempt from taxation
180 pursuant to § 501 (c) (3) of the Internal Revenue Code, or tangible personal property purchased for use
181 or consumption by a § 501 (c) (3) organization that is organized exclusively for the purpose of
182 providing food, shelter, clothing or other items to homeless persons in the Commonwealth.

183 13. From July 1, 1989, through June 30, 1998, tangible personal property purchased for use or
184 consumption by an organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code
185 and organized for the purpose of preparing and publishing a free travel guide for handicapped travelers.

186 14. From July 1, 1989, through June 30, 1998, tangible personal property purchased for use or
187 consumption, or to be sold at retail, by any nonsectarian youth organization exempt from taxation under
188 § 501 (c) (3) of the Internal Revenue Code which is organized for the purposes of the character
189 development and citizenship training of its members using the methods now in common use by Girl
190 Scout or Boy Scout organizations in Virginia.

191 15. From July 1, 1990, through June 30, 1998, tangible personal property purchased for use or
192 consumption by a nonprofit organization which under contract with a municipality operates Head Start
193 programs, extended day-care programs, and a shelter for runaways.

194 16. From July 1, 1990, through June 30, 1998, tangible personal property purchased for use or
195 consumption by a nonstock, nonprofit charitable corporation exempt from taxation under § 501 (c) (3) of
196 the Internal Revenue Code and from local property taxes and organized and operated to offer social
197 services, including, but not limited to, aid or assistance to travelers who, for financial or other reasons,
198 find themselves stranded or otherwise in distress and in need of temporary assistance (traveler's aid);
199 family life education; assistance to persons interested in the adoption of children or acting as foster care
200 parents; counseling to persons in financial need or distress and the provision of services related thereto;
201 counseling for individuals living with persons afflicted with mental health problems or the mentally
202 retarded, as well as providing services directly to the mentally ill or mentally retarded; and related social
203 welfare activities.

204 17. From July 1, 1990, through June 30, 1998, tangible personal property purchased for use or
205 consumption by a nonstock, nonprofit charitable corporation exempt from taxation under § 501 (c) (3) of
206 the Internal Revenue Code and organized and operated to offer social services, including, but not limited
207 to, transitional housing for homeless individuals, employment counseling, placement and referral services
208 to persons in financial need, health-related assistance, child care for children whose parents are either
209 employed or enrolled in job training programs, emergency assistance (including the provision of food) to
210 persons in financial need who may face eviction or termination of utility services, and related social
211 welfare activities.

212 18. From July 1, 1990, through June 30, 1998, tangible personal property purchased for use or
213 consumption by a nonprofit organization exempt from taxation pursuant to § 501 (c) (3) of the Internal
214 Revenue Code and which provides equipment, furniture, motor vehicles, and other types of tangible
215 personal property to assist mentally retarded or mentally ill citizens of the Commonwealth.

216 19. From July 1, 1991, through June 30, 1998, tangible personal property purchased for use or
217 consumption by a community action agency as defined in § 2.1-588.

218 20. Effective retroactive to January 1, 1984, and through June 30, 1998, tangible personal property
219 for use or consumption, or further distribution, or sold by an organization exempt from taxation under
220 § 501 (c) (3) of the Internal Revenue Code and which is organized and operated exclusively for the
221 purposes of providing education, training, certification in emergency cardiac care, research, and other
222 related services to reduce disability and death from cardiovascular diseases and stroke.

223 21. Effective retroactive to January 1, 1984, and through June 30, 1998, tangible personal property
224 for use or consumption, or further distribution, or sold by an organization exempt from taxation under
225 § 501 (c) (3) of the Internal Revenue Code and which is organized and operated exclusively for the
226 purpose of eliminating all lung disease, including asthma, emphysema, lung cancer and pneumonia,
227 through medical research, public education focusing on disease prevention and education, patient
228 education including information on coping with lung disease, smoking and air pollution prevention, and
229 professional education and training.

230 22. Effective retroactive to January 1, 1984, and through June 30, 1998, tangible personal property
231 for use or consumption, or further distribution, or sold by a statewide organization exempt from taxation
232 under § 501 (c) (3) of the Internal Revenue Code and which is organized and operated exclusively for
233 the purpose of eliminating diabetes through medical research, public education focusing on disease
234 prevention and education, patient education including information on coping with diabetes, and
235 professional education and training.

236 23. Effective retroactive to January 1, 1984, and through June 30, 1998, tangible personal property
237 for use or consumption, or further distribution, or sold by an organization exempt from taxation under
238 § 501 (c) (3) of the Internal Revenue Code which is organized exclusively for the purpose of eliminating
239 cancer as a major health problem by preventing cancer, saving lives from cancer, and diminishing

240 suffering from cancer through research, education and service.

241 24. From July 1, 1991, through June 30, 1998, tangible personal property purchased for use or
 242 consumption by a nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal
 243 Revenue Code and organized exclusively for the purpose of promoting and supporting conservation and
 244 environmental issues throughout the Commonwealth by encouraging the protection and restoration of
 245 waters, wildlife and land; safeguarding the public health by eliminating pollution; nurturing and
 246 improving wildlife stocks; promoting the highest standards of sportsmanship and strengthening
 247 farmer-sportsmen understanding; and performing other environmental services.

248 25. From July 1, 1991, through June 30, 1998, tangible personal property purchased for use or
 249 consumption by a nonprofit charitable organization which is exempt from taxation under § 501 (c) (3) of
 250 the Internal Revenue Code and which is organized exclusively to provide immediate and affordable
 251 counseling, and regularly scheduled workshops to address the psychological, educational, and
 252 professional concerns of women and their families.

253 26. From July 1, 1991, through June 30, 1998, tangible personal property purchased for use or
 254 consumption by an organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code
 255 and which is organized exclusively to advance the moral character and to promote sportsmanship, team
 256 spirit, fair play, honesty, and patriotism among youth by providing and supervising clean and wholesome
 257 activities for the youth in Appomattox County who participate in its programs.

258 27. From July 1, 1991, through June 30, 1998, tangible personal property purchased and sold by a
 259 nonprofit organization exempt from taxation under § 501 (c) (3) or (4) of the Internal Revenue Code,
 260 organized exclusively to provide aid and assistance to (i) the blind or visually impaired or programs
 261 devoted to the prevention of the loss of eyesight; (ii) the deaf or hearing impaired; (iii) drug abuse and
 262 drug awareness programs; (iv) diabetes and diabetes detection; and (v) cultural and educational
 263 opportunities for the musically talented boys and girls of the Commonwealth, for use in fund-raising
 264 activities, provided the net proceeds (gross receipts less expenses) from such sales are contributed
 265 directly to or used to fund the charitable purposes for which the organization is organized.

266 28. From July 1, 1991, through June 30, 1998, tangible personal property purchased for use or
 267 consumption in the performance of emergency services by Radio Emergency Associated
 268 Communications Teams which are nonprofit organizations that operate and maintain public service
 269 communications and provide emergency services to motorists and their local communities.

270 § 58.1-609.10. Miscellaneous exemptions.

271 The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606
 272 shall not apply to the following:

273 1. Artificial or propane gas, firewood, coal or home heating oil used for domestic consumption.
 274 "Domestic consumption" means the use of artificial or propane gas, firewood, coal or home heating oil
 275 by an individual purchaser for other than business, commercial or industrial purposes. The Tax
 276 Commissioner shall establish by regulation a system for use by dealers in classifying individual
 277 purchases for domestic or nondomestic use based on the principal usage of such gas, wood, coal or oil.
 278 Any person making a nondomestic purchase and paying the tax pursuant to this chapter who uses any
 279 portion of such purchase for domestic use may, between the first day of the first month and the fifteenth
 280 day of the fourth month following the year of purchase, apply for a refund of the tax paid on the
 281 domestic use portion.

282 2. An occasional sale, as defined in § 58.1-602.

283 3. Tangible personal property for future use by a person for taxable lease or rental as an established
 284 business or part of an established business, or incidental or germane to such business, including a
 285 simultaneous purchase and taxable leaseback.

286 4. Delivery of tangible personal property outside the Commonwealth for use or consumption outside
 287 of the Commonwealth. Delivery of goods destined for foreign export to a factor or export agent shall be
 288 deemed to be delivery of goods for use or consumption outside of the Commonwealth.

289 5. Sales of tangible personal property to a nonsectarian youth organization exempt from taxation
 290 under § 501 (c) (3) of the Internal Revenue Code and sponsoring a national or international camping
 291 assembly within this Commonwealth for seven continuous days or more with attendance in excess of
 292 20,000, which sale of tangible personal property is for use or consumption at such camping assembly.

293 6. Tangible personal property purchased with food coupons issued by the United States Department
 294 of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special
 295 Supplemental Food Program for Women, Infants, and Children.

296 7. From July 1, 1995, through June 30, 1999, tangible personal property purchased for use in the
 297 construction of improvements which are to be used solely for affordable rental dwelling units for
 298 persons who are of the age of at least 62 years, if at least part of the funds for site development and
 299 the construction are provided by an organization exempt from taxation under § 501 (c) (3) of the
 300 Internal Revenue Code and if the amount of funds which would otherwise have to be provided by the

301 *tax exempt organization is reduced by the amount of the sales and use tax exemption. The rental units*
302 *shall be considered to be affordable if the rent charged meets the criteria of the Federal Low Income*
303 *Housing Tax Credit Program.*

304 *8. From July 1, 1995, through June 30, 1999, tangible personal property donated or sold for*
305 *distribution to individuals in the United States who have been victims of a natural disaster which has*
306 *been declared a disaster for federal aid purposes by the President of the United States.*

307 *9. From July 1, 1995, through June 30, 1999, copies of medical records purchased by an attorney or*
308 *his law firm for use in case preparations.*