

1995 SESSION

LEGISLATION NOT PREPARED BY DLS
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HOUSE BILL NO. 1607

Offered January 11, 1995

A BILL to amend and reenact §§ 58.1-609.8 and 58.1-609.10 of the Code of Virginia, relating to sales and use tax exemptions.

Patron—Almand

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

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

§ 58.1-609.8. Nonprofit civic and community service 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. Tangible personal property purchased for use or consumption by or sold by a volunteer fire department or volunteer rescue squad, an auxiliary or junior organization of such department or squad not conducted for profit, a nonprofit association of which the regular membership is composed of such volunteer fire departments or volunteer rescue squads, and construction materials to be incorporated into realty when sold to and used by such organization, rather than a contractor, in construction, maintenance, or repair of any property of such organization.

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

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

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

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

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

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

8. Tangible personal property purchased for use or consumption by an organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized exclusively for the purpose of providing education, training, services, and assistance in independent living to foster care children and

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60 youth without families.

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

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

68 11. From July 1, 1989, through June 30, 1998, tangible personal property purchased for use or
69 consumption by or sold by a nonstock, nonprofit charitable organization, exempt from taxation under
70 § 501 (c) (3) of the Internal Revenue Code and from local real estate taxation, which is organized
71 exclusively to foster, sponsor and promote physical education, athletic programs and contests for youths
72 in the Commonwealth.

73 12. From July 1, 1989, through June 30, 1998, tangible personal property purchased for use or
74 consumption by a shelter for homeless individuals operated by an organization exempt from taxation
75 pursuant to § 501 (c) (3) of the Internal Revenue Code, or tangible personal property purchased for use
76 or consumption by a § 501 (c) (3) organization that is organized exclusively for the purpose of
77 providing food, shelter, clothing or other items to homeless persons in the Commonwealth.

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

81 14. From July 1, 1989, through June 30, 1998, tangible personal property purchased for use or
82 consumption, or to be sold at retail, by any nonsectarian youth organization exempt from taxation under
83 § 501 (c) (3) of the Internal Revenue Code which is organized for the purposes of the character
84 development and citizenship training of its members using the methods now in common use by Girl
85 Scout or Boy Scout organizations in Virginia.

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

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

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

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

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

113 20. Effective retroactive to January 1, 1984, and through June 30, 1998, tangible personal property
114 for use or consumption, or further distribution, or sold by an organization exempt from taxation under
115 § 501 (c) (3) of the Internal Revenue Code and which is organized and operated exclusively for the
116 purposes of providing education, training, certification in emergency cardiac care, research, and other
117 related services to reduce disability and death from cardiovascular diseases and stroke.

118 21. Effective retroactive to January 1, 1984, and through June 30, 1998, tangible personal property
119 for use or consumption, or further distribution, or sold by an organization exempt from taxation under
120 § 501 (c) (3) of the Internal Revenue Code and which is organized and operated exclusively for the
121 purpose of eliminating all lung disease, including asthma, emphysema, lung cancer and pneumonia,

through medical research, public education focusing on disease prevention and education, patient education including information on coping with lung disease, smoking and air pollution prevention, and professional education and training.

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

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

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

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

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

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

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

§ 58.1-609.10. Miscellaneous 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. Artificial or propane gas, firewood, coal or home heating oil used for domestic consumption. "Domestic consumption" means the use of artificial or propane gas, firewood, coal or home heating oil by an individual purchaser for other than business, commercial or industrial purposes. The Tax Commissioner shall establish by regulation a system for use by dealers in classifying individual purchases for domestic or nondomestic use based on the principal usage of such gas, wood, coal or oil. Any person making a nondomestic purchase and paying the tax pursuant to this chapter who uses any portion of such purchase for domestic use may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for a refund of the tax paid on the domestic use portion.

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

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

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

183 deemed to be delivery of goods for use or consumption outside of the Commonwealth.

184 5. Sales of tangible personal property to a nonsectarian youth organization exempt from taxation
185 under § 501 (c) (3) of the Internal Revenue Code and sponsoring a national or international camping
186 assembly within this Commonwealth for seven continuous days or more with attendance in excess of
187 20,000, which sale of tangible personal property is for use or consumption at such camping assembly.

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

191 7. *Sales of tangible personal property used in the construction of improvements which are to be used*
192 *solely for affordable rental dwelling units for persons who are of the age of at least 62 years, if at least*
193 *part of the funds for site development and the construction are provided by an organization exempt from*
194 *taxation under § 501 (c) (3) of the Internal Revenue Code and if the amount of funds which would*
195 *otherwise have to be provided by the tax exempt organization is reduced by the amount of the sales and*
196 *use tax exemption. The rental units shall be considered to be affordable if the rent charged meets the*
197 *criteria of the Federal Low Income Housing Tax Credit Program.*