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## HOUSE BILL NO. 914

Offered January 22, 1996

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

\_\_\_\_\_  
Patron—Purkey

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Referred to Committee on Finance

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

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

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

1. Estimate of state and local revenues which will be foregone as a direct result of the exemption;
2. Beneficiaries of the exemption;
3. Direct or indirect local, state or federal government assistance received by the person seeking exemption;
4. The extent to which the person, property, service or industry is exempt from the retail sales and use tax in other states;
5. Any external statutory, constitutional or judicial mandates in favor of the exemption;
6. Other state taxes to which the person, property, service or industry is subject;
7. Similar taxpayers who are not entitled to a retail sales and use tax exemption; and
8. Other criteria, facts or circumstances which may be relevant to the request for exemption.

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

1. Exemption from federal income taxation under either § 501 (c) (3) or § 501 (c) (4) of the Internal Revenue Code, as evidenced by a ruling or other such documentation;
2. The charitable purpose or purposes for which the entity is organized and operated, and the charitable functions and services it exists to deliver, provided to Virginia citizens, along with an explanation of such services;
3. Proof that no more than one-third of the organization's gross annual revenue, under generally accepted accounting principles, is spent on general administration and fundraising;
4. The location of the organization's financial records available for public inspection and certification that such records are true, accurate, and complete. Salaries, including all benefits, of the five most highly compensated employees shall be specifically disclosed. Organizations whose gross annual revenue is \$250,000 or greater shall be subject to an annual financial audit performed by an independent certified public accountant. Such audit report or reports shall be attached to the organization's application for tax exempt status;
5. Proof of compliance with Chapter 5 (§ 57-48 et seq.) of Title 57 of the Code of Virginia from organizations subject to it;
6. A volunteer board of directors with names and addresses provided.

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

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

C. Nothing contained in subsection A shall prevent the enactment of an exemption without receipt of the required information when the legislation is specifically requested by the Governor, or is otherwise

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60 considered to be of such a nature that the chairman of the committee determines that the information is  
61 not required.

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

67	Category	Year
68		
69	1. Government and Commodities	1999
70	2. Agricultural	1990
71	3. Commercial and Industrial	1991
72	4. Educational	1991
73	5. Services	1992
74	6. Media-Related	1992
75	7. Medical-Related	1993
76	8. Civic and Community Service	1993
77	9. Cultural	1994
78	10. Miscellaneous	1994
79		

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

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