

**REPORT OF THE
JOINT SUBCOMMITTEE STUDYING**

**Criteria for Evaluating
Retail Sales and Use Tax
Exemption Legislation**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



SENATE DOCUMENT NO. 14

**COMMONWEALTH OF VIRGINIA
RICHMOND
1989**

MEMBERS OF THE JOINT SUBCOMMITTEE

Senator Charles J. Colgan, Chairman
Delegate Warren G. Stambaugh, Vice Chairman
Senator Elmo G. Cross, Jr.
Senator Richard J. Holland
Delegate Lewis W. Parker, Jr.
Delegate S. Wallace Stieffen
Delegate Walter A. Stosch
Mr. Marion E. Mason
Mr. Alfred H. Wells, Jr.

STAFF

Legal and Research

Division of Legislative Services
Regina M. McNally, Staff Attorney
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Staff Assistance Also Provided By:

Virginia Department of Taxation
William Forst, Commissioner

Administrative and Clerical

Office of the Clerk, Senate of Virginia

SENATE JOINT RESOLUTION NO. 70

Requesting the Senate and House Finance Committees to continue the joint subcommittee studying criteria for evaluating retail sales and use tax exemption legislation.

Agreed to by the Senate, February 10, 1988

Agreed to by the House of Delegates, March 9, 1988

WHEREAS, Senate Joint Resolution No. 119 of the 1987 Session of the General Assembly of Virginia established a joint subcommittee to develop criteria for evaluating retail sales and use tax exemption legislation; and

WHEREAS, the joint subcommittee determined that the categories of sales tax exemptions have expanded from twenty-one to sixty-eight since 1966 when the retail sales and use tax was first enacted; and

WHEREAS, the expansion of exemptions has resulted in piecemeal erosion of the retail sales and use tax base; and

WHEREAS, the joint subcommittee concluded that the fiscal impact, economic impact and policy impact of existing retail sales and use tax exemptions cannot be comprehensively analyzed without obtaining additional information from exempt taxpayers relating to their purchases, sales and any direct or indirect governmental assistance which they receive; and

WHEREAS, the Secretary of Finance and the Commissioner of the Department of Taxation are requested to investigate and analyze the fiscal impact, economic impact and policy impact of the existing retail sales and use tax exemptions, before the joint subcommittee adopts final criteria for recommendation to the General Assembly; and

WHEREAS, the Secretary of Finance and Commissioner of the Department of Taxation shall report to the joint subcommittee the following findings:

(i) An appropriate division of existing exemptions into no more than five categories; and

(ii) Specific criteria for evaluating the fiscal, economic and policy impact of each category of exemptions; and

WHEREAS, the joint subcommittee shall make final criteria recommendations based on the report of the tax expenditure study to the 1989 Session of the General Assembly; and

WHEREAS, subsequent to the approval by the 1989 Session of the General Assembly of the criteria for evaluating each category of exemptions, the Secretary of Finance and the Tax Commissioner shall evaluate existing retail sales and use tax exemptions using this criteria; and

WHEREAS, the Secretary of Finance and the Tax Commissioner are further requested to report their findings to the joint subcommittee on the basis of one category per year, beginning with 1990 and concluding in 1994; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the joint subcommittee studying criteria for evaluating retail sales and use tax exemptions is hereby continued. The members appointed pursuant to SJR 119 (1987) shall continue to serve, with vacancies filled by the same appointing authority specified in that resolution.

Two citizen members shall be appointed by the Governor as follows: one representative of the retail industry, and one representative of the manufacturing industry.

The indirect costs of this study are estimated to be \$8255; the direct costs of this study shall not exceed \$3780.

Report of the Joint Subcommittee Studying
Criteria for Evaluating Retail Sales and Use Tax
Exemption Legislation
To

The Governor and the General Assembly of Virginia
Richmond, Virginia
December, 1988

TO: The Honorable Gerald L. Baliles, Governor of Virginia
and
The General Assembly of Virginia

I. INTRODUCTION

This joint subcommittee was established pursuant to Senate Joint Resolution No. 70 to continue the 1987 joint subcommittee studying criteria for evaluating retail sales and use tax exemption legislation. The 1987 subcommittee determined that when the sales tax was originally created in 1966, the number of exemptions was limited to 21 numbered paragraphs. However, today there are more than 100 exemptions existing in §§ 58.1-602, 58.1-608 and 58.1-610. The joint subcommittee concluded that the expansion of exemptions had substantially eroded the sales tax base, and to prevent further erosion, it seemed desirable to establish a consistent method of evaluating exemption legislation. The 1987 joint subcommittee submitted two items of legislation which were enacted by the 1988 General Assembly: (i) Senate Joint Resolution No. 70, and (ii) Senate Bill No. 314. Senate Joint Resolution No. 70 charged the Secretary of Finance and the Commissioner of the Department of Taxation with the following responsibilities:

1. To establish an appropriate division of existing exemptions into no more than five categories;
2. To develop specific criteria for evaluating the fiscal, economic and policy impact of each category of exemptions; and
3. To evaluate each category of exemptions using the criteria developed and to report the findings to the General Assembly on the basis of one category per year.

Senate Bill No. 314 authorized the Tax Commissioner to collect the following information from taxpayers to facilitate the study process authorized by Senate Joint Resolution No. 70:

1. Exempt purchases or sales;
2. Qualification for exempt purchases; and
3. Direct or indirect government assistance received.

Senator Charles J. Colgan and Delegate Warren G. Stambaugh continued to serve as Chairman and Vice Chairman, respectively of SJR 70. The 1988 General Assembly also appointed two new citizen members to the joint subcommittee, namely Marion E. Mason, Leggett Department Stores, and Alfred J. Wells, Jr., Ethyl Corporation.

II. SCOPE OF STUDY

The joint subcommittee held two meetings in 1988, at which they considered Secretary Connock's proposals regarding:

- A. The criteria which the General Assembly should adopt in evaluating existing and future exemptions;
- B. The categories which exemptions should be divided into for analysis;
- C. The process for handling carryover bills and new bills; and
- D. A study process for evaluating exemption legislation in 1989 and after.

A. Criteria Considered:

The joint subcommittee considered criteria which the Secretary of Finance recommended for use in evaluating existing and future exemptions, and he further recommended that the following eight criteria be codified to ensure consistent and continuous analysis of retail sales and use tax exemptions:

1. An estimate of state and local revenue which will be foregone as a direct result of the exemption;
2. Identification of the beneficiaries of the exemption;

3. Direct or indirect governmental assistance received by the person seeking the exemption;
4. Exemptions from the retail sales and use tax applicable in other states;
5. Any external, statutory, constitutional, or judicial mandate favoring the exemption;
6. Other state taxes to which the person, property, service, or industry is subject;
7. Similarly situated taxpayers who would not be entitled to the exemption; and
8. Other criteria, facts or circumstances relevant to the exemption request.

The joint subcommittee concluded that the preceding criteria would provide valuable information to the legislators and taxpayers in a manner that is least burdensome to taxpayers, legislators and administrators. To facilitate the collection of the information, it was suggested that the criteria could be included in the form of a questionnaire for distribution and completion by the person or patron seeking the exemption.

B. Categories

The joint subcommittee considered the proposal that existing retail sales and use tax exemptions should be divided into like-kind categories for codification and evaluation on the basis of two categories per year, using the preceding criteria:

1. Governmental and Commodities Exemptions
2. Agricultural Exemptions
3. Service Exemptions
4. Media-Related Exemptions
5. Commercial and Industrial Exemptions
6. Educational Exemptions
7. Medical-Related Exemptions
8. Nonprofit Civic and Community Service Exemptions
9. Nonprofit Cultural Organization Exemptions
10. Miscellaneous Exemptions

C. Process for Handling Carryover Bills and New Bills

The joint subcommittee considered several options regarding possible courses of action in handling carryover exemption bills and future exemption legislation in 1989 and after. Secretary Connock submitted the following alternatives to the subcommittee as possible courses of action to consider in handling carryover bills and new exemption bills:

1. Option #1: Defer any action on carryover bills until the exemptions are analyzed as part of the tax expenditure study, or, pass the carryovers with a sunset provision.
2. Option #2: Impose a prefiling date for future exemption bills to ensure sufficient time for analyses of criteria by the Tax Department.
3. Option #3: Impose a prefiling date and require the patron to submit the criteria information with the bill to place the burden of information collection on the party seeking the exemption.
4. Option #4: Defer any exemption legislation until the study analysis under the proper grouping is completed.

In considering the preceding alternatives, the joint subcommittee was concerned that it would be difficult to apply the suggested criteria to carryover bills and to 1989 legislation because of the time limitations imposed in accumulating the necessary information for the committee meeting.

D. Tax Expenditure Study Process

The joint subcommittee also evaluated the proposed tax expenditure study process recommended by the Secretary of Finance. The tax expenditure study would begin in 1989 and continue as an ongoing study of sales tax exemptions. The Department of Taxation's policy and research staffs would evaluate two groups of exemptions per year, working closely with industry and organizations impacted by current exemptions, and report the findings using the criteria adopted to the Senate and House Finance Committees. The Finance Committees would make the ultimate decision as to whether any recommendation on the exemption should be made. The following reporting schedule was recommended to ensure that the study was an ongoing and permanent process:

<u>Category</u>	<u>Reporting Date</u>
Government and Commodities -- Agricultural	December 1, 1989
Services -- Media-Related	December 1, 1990
Commercial and Industrial -- Educational	December 1, 1991
Medical Related -- Civic and Community Service	December 1, 1992
Cultural -- Miscellaneous	December 1, 1993

After considering the preceding proposals, the joint subcommittee evaluated draft legislation incorporating the eight criteria and categories proposed, a questionnaire which would be furnished to patrons of exemption bills, and legislation that establishes a permanent and ongoing process for conducting the tax expenditure study.

The joint subcommittee decided that carryover and 1989 exemption bill should be handled in the following manner: The Division of Legislative Services should advise patrons of carryovers and 1989 exemptions bills that the joint subcommittee would apply the following recommendations as nearly as practicable to carryovers and 1989 exemption bills. The joint subcommittee recommended the following be submitted for introduction as a bill to the 1989 General Assembly as the recommendations of this subcommittee:

III. RECOMMENDATIONS

1. Adoption and codification of eight criteria which should be employed in evaluating retail sales and use tax exemption bills. The criteria are: (1) an 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 governmental assistance received by the person seeking the exemption; (4) exemption from the retail sales and use tax in other states; (5) any external statutory, constitutional or judicial mandate favoring the exemption; (6) other state taxes to which the person, property, service or industry is subject; (7) similar taxpayers who are not entitled to the exemption; and (8) other criteria, facts or circumstances relevant to the exemption request.
2. Adoption of a process for requesting exemption legislation which includes furnishing the patron with a questionnaire to furnish specific information relating to the exemption at the time the bill is requested from Legislative Services. The results of the questionnaire would be attached to the impact statement prepared by the Department of Taxation.
3. Imposition of a filing deadline on retail sales and use tax exemption bills, no later than the first day of the General Assembly Session -- the same deadline applicable to claims bills and charter bills. This would allow a more thorough analysis of exemptions according to the criteria adopted.
4. Adoption of a redraft of §§ 58.1-602, 58.1-608 and 58.1-610, which establish and codifies existing exemptions into the following ten categories by reorganizing §§ 58.1-602 and 58.1-608 with no changes to the existing exemption language:
 1. Governmental and commodities
 2. Agricultural exemptions
 3. Service exemptions
 4. Media-related exemptions
 5. Commercial and industrial exemptions
 6. Educational exemptions
 7. Medical-related exemptions
 8. Nonprofit civic and community service exemptions
 9. Nonprofit cultural organization exemptions
 10. Miscellaneous exemptions
5. Adoption of the Tax Expenditure Study to establish a permanent and ongoing study of retail sales and use tax exemptions conducted by the Secretary of Finance. The exemptions would be studied on the basis of two categories per year, according to a codified schedule, beginning in 1990, and the Secretary would annually report the findings to the House and Senate Finance Committees by December 1.

Senate Joint Resolution No. 70

TABLE ____

COMPARABLE SECTIONS FOR RETAIL SALES AND USE TAX EXEMPTIONS UNDER REVISED § 58.1-608

<u>Existing Section</u>	<u>New Section</u>	<u>Category/Exemption</u>
§ 58.1-602(8)	§ 58.1-608 4(A) (pg. 30, l. 15)	Media Related/Public Motion Picture Film Rentals
§ 58.1-602(11)	§ 58.1-608 7(L) (pg. 38, l. 17)	Medical/Nonprofit Hospital Corp.
§ 58.1-602(17)(ii)	§ 58.1-608 3(B) (pg. 29, l. 25)	Services/Separately stated charges for repair or labor services
§ 58.1-602(17)(iv)	§ 58.1-608 3(C) (pg. 29, l. 27)	Services/Separately stated transportation charges
§ 58.1-602(17)(v)	§ 58.1-608 3(D) (pg. 29, l. 28)	Services/Separately stated charges for alterations
§ 58.1-602(17)(vi)	§ 58.1-608 3(E) (pg. 30, l. 2)	Services/Gift wrapping by a nonprofit organization
§ 58.1-602(17)(vii)	§ 58.1-608 3(F) (pg. 30, l. 4)	Services/Modifications to prewritten computer programs
§ 58.1-608(1)	§ 58.1-608 5(B) (pg. 30, l. 17)	Commercial & Industrial/Industrial manufacturing and processing
§ 58.1-608(2)	§ 58.1-608 3(A) (pg. 29, l. 21)	Services/Professional, Insurance, Personal
§ 58.1-608(3)	§ 58.1-608 2(A) (pg. 28, l. 17)	Agricultural/Farm Equipment and Machinery, Commercial feeds, seeds, etc.
§ 58.1-608(4)	§ 58.1-608 2(B) (pg. 28, l. 18)	Agricultural/Commodities for Processing

*NOTE: Page numbers correspond to Draft Bill.
l. = line number listed in left margin of draft bill

<u>Existing Section</u>	<u>New Section</u>	<u>Category/Exemption</u>
§ 58.1-608(5)	§ 58.1-608 2(C) (pg. 28, l. 28)	Agricultural/Products Produced and Used by Farmer
§ 58.1-608(6)	§ 58.1-608 1(A) (pg. 26, l. 23)	Governmental & Commodities/Motor Fuels
§ 58.1-608(7)	§ 58.1-608 1(B) (pg. 26, l. 28)	Governmental & Commodities/Motor Vehicles, Trailers, Semitrailers and Travel Trailers
§ 58.1-608(8)	§ 58.1-608 1(C) (pg. 27, l. 2)	Governmental & Commodities/Gas, Electricity & Water Delivered to Consumers
§ 58.1-608(9)	§ 58.1-608 10(A) (pg. 42, l. 12)	Miscellaneous/Fuels for Domestic Consumption
§ 58.1-608(10)	§ 58.1-608 5(C) (pg. 32, l. 8)	Commercial & Industrial/Tangible personal property sold or leased to Public Service Corporations subject to state franchise tax or gross receipts
§ 58.1-608(11)	§ 58.1-608 5(D) (pg. 32, l. 21)	Commercial & Industrial/Ships, vessels and other items used exclusively in interstate or foreign commerce
§ 58.1-608(12)	§ 58.1-608 4(B) (pg. 30, l. 18)	Media Related/Commercial Broadcasting Equipment
§ 58.1-608(13)	§ 58.1-608 4(C) (pg. 30, l. 24)	Media Related/Publications Issued Quarterly
§ 58.1-608(14)	§ 58.1-608 6(A) (pg. 34, l. 2)	Educational/School Lunches & Textbooks
§ 58.1-608(15)	§ 58.1-608 10(B) (pg. 42, l. 24)	Miscellaneous/Occasional Sales
§ 58.1-608(16)	§ 58.1-608 10(C) (pg. 42, l. 25)	Miscellaneous/Leasebacks
§ 58.1-608(17)	§ 58.1-608 1(D) (pg. 27, l. 4)	Governmental & Commodities/ABC Beverage Sales

<u>Existing Section</u>	<u>New Section</u>	<u>Category/Exemption</u>
§ 58.1-608(18)	§ 58.1-608 1(E) (pg. 27, l. 6)	Governmental & Commodities/State, Local & Federal Government
§ 58.1-608(19)	§ 58.1-608 5(E) (pg. 33, l. 3)	Commercial/Tangible personal property used in Research & Development & Industrial
§ 58.1-608(20)	§ 58.1-608 10(D) (pg. 43, l. 1)	Miscellaneous/Delivery of goods for Interstate Commerce & Foreign Factors
§ 58.1-608(21)	§ 58.1-608 7(A) (pg. 36, l. 12)	Medical Related/Prescription Medicines and Drugs
§ 58.1-608(22)	§ 58.1-608 7(B) (pg. 36, l. 21)	Medical/Durable Medical Equipment
§ 58.1-608(22)(a)	§ 58.1-608 7(C) (pg. 37, l. 5)	Medical/Dialysis Drugs & Supplies
§ 58.1-608(23)	§ 58.1-608 7(D) (pg. 37, l. 7)	Medical/Tangible personal property for use by Nonprofit Nursing Homes
§ 58.1-608(23)(a)	§ 58.1-608 7(E) (pg. 37, l. 9)	Medical/Community Health Centers
§ 58.1-608(24)	§ 58.1-608 6(C) (pg. 34, l. 17)	Educational/Training Centers for Retarded Citizens
§ 58.1-608(25)	§ 58.1-608 6(D) (pg. 34, l. 25)	Educational/Civics Ed. Organizations
§ 58.1-608(26)	§ 58.1-608 5(F) (pg. 33, l. 6)	Commercial & Industrial/Commercial Airlines
§ 58.1-608(27)	§ 58.1-608 8(A) (pg. 38, l. 23)	Nonprofit Civic & Community Service/ Volunteer Fire and Rescue Squads
§ 58.1-608(28)	§ 58.1-608 2(D) (pg. 29, l. 3)	Agricultural/Machinery & Tools Used by Watermen
§ 58.1-608(29)	§ 58.1-608 1(F) (pg. 27, l. 11)	Governmental & Commodities/Aircraft
§ 58.1-608(30)	§ 58.1-608 4(D) (pg. 31, l. 1)	Media Related/Catalogues and Other Printed Material

<u>Existing Section</u>	<u>New Section</u>	<u>Category/Exemption</u>
§ 58.1-608(31)	§ 58.1-608 1(G) (pg. 27, 1. 12)	Governmental/Commodities/Boat&Ship Fuel by Farmer
§ 58.1-608(32)	§ 58.1-608 5(G) (pg. 32, 1. 24)	Commercial& Industrial/Mealstor Fuels Furnished to Restaurant Employees
§ 58.1-608(33)	§ 58.1-608 7(F) (pg. 37, 1. 15)	Medical/Motor&VehicleiEquipmentfor HandicappedTrailers, Semitrailers and Travel Trailers
§ 58.1-608(34)	§ 58.1-608 1(H) (pg. 26, 1. 27)	Governmental & Commodities/Official Flagsricity & Water Delivered to Consumers
§ 58.1-608(35)	§ 58.1-608 1(I) (pg. 27,01.116)) 1. 12)	Governmental & Commodities/State Board ofElectionssSales for Domestic Consumption
§ 58.1-608(36)	§ 58.1-608 6(E) (pg. 35,01.56)) 1. 8)	Educational/Reading is Fundamental Programial & Industrial/Tangible personal property sold or leased to
§ 58.1-608(37)	§ 58.1-608 2(E) (pg. 29, 1. 10)	Agricultural/Feed&MakingMachinery& to Tools franchise tax or gross receipts
§ 58.1-608(38)	§ 58.1-608 8(B) (pg. 39, 1. 2))	NonprofitlCivild&sCommunitypService/l Tangiblepersonal propertylforvuse by NonprofiteChurchesign commerce
§ 58.1-608(39)	§ 58.1-608 5(H) (pg. 33, 1. 15)	Commercialt&dIndustrial/Linendcasting Processors
§ 58.1-608(40)	§ 58.1-608 9(A) (pg. 41, 1. 11)	NonprofitaCultural/StatenHistorical Societyly
58.1-608(41)	§ 58.1-608 10(E) (pg. 43, 1. 6)	Miscellaneous/BoylScouthJamboreetbooks
§ 58.1-608(42)	§ 58.1-608 1(J)) (pg. 27, 1. 21)	Governmentals&OCommodities/Watercraft
§ 58.1-608(43)	§ 58.1-608 1(K)) (pg. 27, 1. 22)	Governmentals&LCommodities/Va. Port Authority & Agents
§ 58.1-608(44)	§ 58.1-608 9(B) (pg. 41, 1. 15)	NonprofittCultural/ChryslerAMuseum & ScienceeTechnology Museums

<u>Existing Section</u>	<u>New Section</u>	<u>Category/Exemption</u>
§ 58.1-608(45)	§ 58.1-608 8(C) (pg. 39, 1. 21)	Nonprofit Civic & Community Service/ Meals on Wheels
§ 58.1-608(46)	§ 58.1-608 8(D) (pg. 39, 1. 26)	Nonprofit Civic & Community Service/ Humane Society
§ 58.1-608(47)	§ 58.1-608 1(L) (pg. 27, 1. 27)	Governmental & Commodities/Art Sales by Prisoners
§ 58.1-608(48)	§ 58.1-608 6(F) (pg. 35, 1. 9)	Educational/Boarding Schools for Handicapped
§ 58.1-608(49)	§ 58.1-608 7(G) (pg. 37, 1. 18)	Medical Related/Ronald MacDonald Houses for children with leukemia or oncological diseases
§ 58.1-608(50)	§ 58.1-608 7(H) (pg. 37, 1. 24)	Medical Related/Easter Seal Society
§ 58.1-608(51)	§ 58.1-608 2(F) (pg. 29, 1. 16)	Agricultural/Forest Product Harvesting Equipment
§ 58.1-608(52)	§ 58.1-608 5(I) (pg. 33, 1. 20)	Commercial & Industrial/Pollution Control Equipment
§ 58.1-608(53)	§ 58.1-608 1(M) (pg. 28, 1. 2)	Governmental & Commodities/Dept. for Visually Handicapped
§ 58.1-608(54)	§ 58.1-608 5(J) (pg. 33, 1. 22)	Commercial & Industrial/Taxicabs, Repair parts & Meters
§ 58.1-608(55)	§ 58.1-608 9(C) (pg. 41, 1. 22)	Nonprofit Cultural/Maymont Park & Museum
§ 58.1-608(56)	§ 58.1-608 7(I) (pg. 38, 1. 3)	Medical Related/Typewriters for Handicapped
§ 58.1-608(57)	§ 58.1-608 4(E) (pg. 31, 1. 10)	Media Related/Media Advertising
§ 58.1-608(58)	§ 58.1-608 9(D) (pg. 42, 1. 1)	Nonprofit Cultural/American Indian Heritage Foundation

<u>Existing Section</u>	<u>New Section</u>	<u>Category/Exemption</u>
§ 58.1-608(59)	§ 58.1-608 8(E) (pg. 40, l. 5)	Nonprofit Civic & Community Service/ Retail Inventory Donations to nonprofit organizations
§ 58.1-608(60)	§ 58.1-608 8(F) (pg. 40, l. 10)	Nonprofit Civic & Community Service/ Christmas Mothers
§ 58.1-608(61)	§ 58.1-608 8(G) (pg. 40, l. 16)	Nonprofit Civic & Community Service/ Shelters for Abused Children
§ 58.1-608(62)	§ 58.1-608 6(G) (pg. 35, l. 15)	Educational/Law Enforcement Education Groups
§ 58.1-608(63)	§ 58.1-608 6(H) (pg. 35, l. 21)	Educational/PTA & Similar Group Purchases and Sales
§ 58.1-608(64)	§ 58.1-608 5(K) (pg. 33, l. 25)	Commercial & Industrial/High Speed Duplicators
§ 58.1-608(65)	§ 58.1-608 10(F) (pg. 43, l. 12)	Miscellaneous/Food Stamp and WIC
§ 58.1-608(66)	§ 58.1-608 7(J) (pg. 38, l. 7)	Medical Related/Health Maintenance Organizations
§ 58.1-608(67)	§ 58.1-608 8(H) (pg. 40, l. 23)	Nonprofit Civic & Community Service/ Organization for Foster Children
§ 58.1-608(68)	§ 58.1-608 7(K) (pg. 38, l. 11)	Medical Related/Free Health Care Clinics
§ 58.1-610(F)	§ 58.1-608 5(A) (pg. 31, l. 12)	Commercial & Industrial/Temporary Storage of Construction Materials by a Contractor

Proposed Categories for Exemptions Under Revised § 58.1-608

	<u>Draft Page Numbers</u>
1. Governmental and Commodities	Pgs. 26 - 28
2. Agricultural	Pgs. 28 - 29
3. Services	Pg. 29 - 30
4. Media Related	Pgs. 30 - 31
5. Commercial and Industrial	Pgs. 31 - 33
6. Educational	Pgs. 34 - 36
7. Medical Related	Pgs. 36 - 38
8. Nonprofit Civic and Community Service Exemptions	Pgs. 38 - 41
9. Nonprofit Cultural Organizations	Pgs. 41 - 42
10. Miscellaneous Exemptions	Pgs. 42 - 43

APPENDIX

INSTRUCTIONS: Space is provided for your responses, but you may attach supplemental responses and/or documents if necessary. As used in this questionnaire, the term "taxpayer" means any organization, association, commodity, industry group, entity or activity, (singular or plural), which is seeking an exemption from the sales and use tax.

1. (a) Describe the taxpayer seeking the exemption. For example, what is the taxpayer's primary business, activity or other purpose (a taxpayer's articles of incorporation may provide this information)?

(b) Is the taxpayer exempt from federal income tax as a nonprofit organization?
 YES NO DON'T KNOW

2. Describe the exemption sought. For example, is an exemption sought for all purchases and/or sales made by the taxpayer or only for certain purchases or sales by the taxpayer in a particular activity?

3. What was the dollar amount, excluding sales tax, of all taxpayer's purchases, sales or other transactions during the last 12 months for which the exemption is being sought? (If this information is not available for the most recent 12 months, please indicate the period and the amount of such transactions for which information is available.)

	DOLLAR AMOUNT	12 MONTH (OR OTHER) PERIOD
PURCHASES:	\$ _____	_____
SALES:	\$ _____	_____
OTHER:	\$ _____	_____
TOTAL:	\$ _____	

Number of taxpayers included for which data is listed above _____

4. To your knowledge, are there any other taxpayers in this state who might qualify for the exemption being sought? For example, are there other taxpayers performing functions similar to those provided by the taxpayer seeking this exemption? YES NO DON'T KNOW

If **yes**, please indicate the nature and number of such taxpayers if known.

5. Does the taxpayer seeking this exemption qualify for direct or indirect federal, state or local government financial assistance of any kind, such as grants, subsidies, appropriations, etc? (For example, a community health clinic may receive federal funding in order to provide free care to the poor.) YES NO DON'T KNOW

If **yes**, please describe the source and dollar amount of such assistance received by the taxpayer during the last 12 months. (If information is not available for the most recent 12 months, please indicate the period and amounts for which such information is available.)

SOURCE/TYPE OF FUNDING	DOLLAR AMOUNT	12-MONTH (or other) PERIOD
_____	\$ _____	_____
_____	\$ _____	_____
_____	\$ _____	_____

6. Do taxpayers in other states identical to the taxpayer seeking this exemption presently qualify for exemptions from sales tax in any of the following states?

	<u>YES</u>	<u>NO</u>	<u>DON'T KNOW</u>
District of Columbia	_____	_____	_____
Maryland	_____	_____	_____
North Carolina	_____	_____	_____
Tennessee	_____	_____	_____
West Virginia	_____	_____	_____
Other states (please list)			
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

7. Is the taxpayer seeking this exemption presently subject to any state or local taxes, including:

	<u>YES</u>	<u>NO</u>	<u>DON'T KNOW</u>
Corporate/Individual Income Tax	_____	_____	_____
SCC Gross Receipts Tax	_____	_____	_____
Local Property Tax	_____	_____	_____
Business License Tax	_____	_____	_____
Other State or Local Taxes (please list)			
_____	_____	_____	_____
_____	_____	_____	_____

8. Other factors to consider when evaluating this request for exemption include:

WAIVER: The information provided in this request for sales tax exemption shall NOT be subject to the secrecy of information provisions of Va. Code §§ 30-28.18 or 58.1-3, or any other secrecy of information provisions thereof and shall become a part of the public legislative record. However, this information may not be used for any purpose other than as part of the legislative record
SUBMITTED:

 Patron Date

 Taxpayer Date
 (required only if exemption applies to one taxpayer, group or organization)

CONTACT: Person to contact for additional information or questions about information submitted.

 Name (_____) Phone

 Address

1 D 12/9/88 McNally T 12/9/88 jds

2 SENATE BILL NO. HOUSE BILL NO.

3 A BILL to amend and reenact §§ 58.1-602, 58.1-608 and 58.1-610 of the
4 Code of Virginia and to amend the Code of Virginia by adding
5 sections numbered 30-19.05 and 30-19.1:2, relating to retail
6 sales and use tax exemptions.

7

8 Be it enacted by the General Assembly of Virginia:

9 1. That §§ 58.1-602, 58.1-608 and 58.1-610 of the Code of Virginia
10 are amended and reenacted and that the Code of Virginia is amended by
11 adding sections numbered 30-19.05 and 30-19.1:2 as follows:

12 § 30-19.05. Legislative consideration of exemptions from the
13 retail sales and use tax.--A. When any legislation involving an
14 exemption or exclusion from the retail sales and use tax pursuant to
15 Chapter 6 of Title 58.1 is referred to a committee of the General
16 Assembly, the chairman of the committee shall require that the patron,
17 prior to the consideration of the legislation by the committee, submit
18 the following information:

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

21 2. Beneficiaries of the exemption;

22 3. Direct or indirect local, state or federal government
23 assistance received by the person seeking exemption;

24 4. The extent to which the person, property, service or industry
25 is exempt from the retail sales and use tax in other states;

26 5. Any external statutory, constitutional or judicial mandates in

1 favor of the exemption;

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

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

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

8 B. Nothing contained in subsection A shall prevent the enactment
9 of an exemption without receipt of the required information when the
10 legislation is specifically requested by the Governor, or is otherwise
11 considered to be of such a nature that the chairman of the committee
12 determines that the information is not required.

13 C. The Secretary of Finance shall investigate and analyze the
14 fiscal, economic and policy impact of each exemption category set out
15 in § 58.1-608 of this Code. The Secretary shall report the findings to
16 the House and Senate Finance Committees each year by December 1, and
17 shall report on two exemption categories each year and every five
18 years thereafter, beginning with the 1990 Session of the General
19 Assembly according to the following schedule:

	<u>Category</u>	<u>Year</u>
20		
21	<u>1. Government and Commodities</u>	<u>1990</u>
22	<u>2. Agricultural</u>	<u>1990</u>
23	<u>3. Services</u>	<u>1991</u>
24	<u>4. Media-Related</u>	<u>1991</u>
25	<u>5. Commercial and Industrial</u>	<u>1992</u>
26	<u>6. Educational</u>	<u>1992</u>
27	<u>7. Medical Related</u>	<u>1993</u>
28	<u>8. Civic and Community Service</u>	<u>1993</u>

1 more prewritten programs does not constitute a custom computer
2 program. A prewritten program that is modified to any degree remains a
3 prewritten program and does not become custom.

4 3- "Distribution" means the transfer or delivery of tangible
5 personal property for use, consumption, or storage by the distributee,
6 and the use, consumption, or storage of tangible personal property by
7 a person who has processed, manufactured, refined, or converted such
8 property, but does not include the transfer or delivery of tangible
9 personal property for resale or any use, consumption, or storage
10 otherwise exempt under this chapter.

11 4- "Gross proceeds" means the charges made or voluntary
12 contributions received for the lease or rental of tangible personal
13 property or for furnishing services, computed with the same
14 deductions, where applicable, as for sales price as set forth in
15 subdivision 17 of this section over the term of the lease, rental,
16 service, or use, but not less frequently than monthly.

17 5- "Gross sales" means the sum total of all retail sales of
18 tangible personal property or services as defined in this chapter,
19 without any deduction, except as provided in this chapter. "Gross
20 sales" shall not include the federal retailers' excise tax or the
21 federal diesel fuel excise tax imposed in § 4091 of the Internal
22 Revenue Code if the excise tax is billed to the purchaser separately
23 from the selling price of the article, or the Virginia retail sales or
24 use tax, or any sales or use tax imposed by any county or city under §
25 58.1-605 or § 58.1-606.

26 6- "Import" and "imported" are words applicable to tangible
27 personal property imported into this Commonwealth from other states as
28 well as from foreign countries, and "export" and "exported" are words

1 applicable to tangible personal property exported from this
2 Commonwealth to other states as well as to foreign countries.

3 7- "In this State" or "in the State" means within the limits of
4 the Commonwealth of Virginia and includes all territory within these
5 limits owned by or ceded to the United States of America.

6 8- "Lease or rental" means the leasing or renting of tangible
7 personal property and the possession or use thereof by the lessee or
8 renter for a consideration, without transfer of the title to such
9 property ~~; but such terms shall not include the leasing, renting~~
10 ~~or licensing of copyright audio or video tapes, and films for public~~
11 ~~exhibition at motion picture theatres or by licensed radio and~~
12 ~~television stations.~~

13 9- "Manufacturing, processing, refining, or conversion" includes
14 the production line of the plant starting with the handling and
15 storage of raw materials at the plant site and continuing through the
16 last step of production where the product is finished or completed for
17 sale and conveyed to a warehouse at the production site, and also
18 includes equipment and supplies used for production line testing and
19 quality control. The term "manufacturing" shall also include the
20 necessary ancillary activities of newspaper and magazine printing when
21 such activities are performed by the publisher of any newspaper or
22 magazine for sale daily or regularly at average intervals not
23 exceeding three months.

24 The determination whether any manufacturing, mining, processing,
25 refining or conversion activity is industrial in nature shall be made
26 without regard to plant size, existence or size of finished product
27 inventory, degree of mechanization, amount of capital investment,
28 number of employees or other factors relating principally to the size

1 of the business. Further, "industrial in nature" shall include, but
2 not be limited to, those businesses classified in codes 10 through 14
3 and 20 through 39 published in the Standard Industrial Classification
4 Manual for 1972 and any supplements issued thereafter.

5 ~~10-~~ "Motor vehicle" means a "motor vehicle" as defined in §
6 58.1-2401, taxable under the provisions of the Virginia Motor Vehicles
7 Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which
8 all applicable motor vehicle sales and use taxes have been paid.

9 ~~11-~~ "Nonprofit hospital" includes nonprofit hospital cooperatives
10 or nonprofit hospital corporations organized and operated for the sole
11 purpose of providing services exclusively to nonprofit hospitals and
12 shall not include any nonprofit hospital cooperative or nonprofit
13 hospital corporation providing services of any kind or to any extent
14 to other than nonprofit hospitals.

15 ~~12-~~ "Occasional sale" means a sale of tangible personal property
16 not held or used by a seller in the course of an activity for which he
17 is required to hold a certificate of registration, including the sale
18 or exchange of all or substantially all the assets of any business and
19 the reorganization or liquidation of any business, provided such sale
20 or exchange is not one of a series of sales and exchanges sufficient
21 in number, scope and character to constitute an activity requiring the
22 holding of a certificate of registration.

23 ~~13-~~ "Person" includes any individual, firm, copartnership,
24 cooperative, nonprofit membership corporation, joint venture,
25 association, corporation, estate, trust, business trust, trustee in
26 bankruptcy, receiver, auctioneer, syndicate, assignee, club, society,
27 or other group or combination acting as a unit, body politic or
28 political subdivision, whether public or private, or quasi-public, and

1 the plural of such term shall mean the same as the singular thereof .

2 "Prewritten program" means a computer program that is prepared,
3 held or existing for general or repeated sale or lease, including a
4 computer program developed for in-house use and subsequently sold or
5 leased to unrelated third parties.

6 ~~14.~~ "Retail sale" or a "sale at retail" means a sale to any
7 person for any purpose other than for resale in the form of tangible
8 personal property or services taxable under this chapter, and shall
9 include any such transaction as the Tax Commissioner upon
10 investigation finds to be in lieu of a sale. All sales for resale must
11 be made in strict compliance with ~~rules and~~ regulations applicable to
12 this chapter. Any dealer making a sale for resale which is not in
13 strict compliance with such ~~rules and~~ regulations shall be personally
14 liable for payment of the tax.

15 The terms "retail sale" and a "sale at retail" shall specifically
16 include the following: (i) the sale or charges for any room or rooms,
17 lodgings, or accommodations furnished to transients for less than
18 ninety continuous days by any hotel, motel, inn, tourist camp, tourist
19 cabin, camping grounds, club, or any other place in which rooms,
20 lodging, space, or accommodations are regularly furnished to
21 transients for a consideration; and (ii) sales of tangible personal
22 property to persons for resale when because of the operation of the
23 business, or its very nature, or the lack of a place of business in
24 which to display a certificate of registration, or the lack of a place
25 of business in which to keep records, or the lack of adequate records,
26 or because such persons are minors or transients, or because such
27 persons are engaged in essentially service businesses, or for any
28 other reason there is likelihood that the Commonwealth will lose tax

1 funds due to the difficulty of policing such business operations. The
2 Tax Commissioner is authorized to promulgate ~~rules and~~ regulations
3 requiring vendors of or sellers to such persons to collect the tax
4 imposed by this chapter on the cost price of such tangible personal
5 property to such persons and may refuse to issue certificates of
6 registration to such persons.

7 ~~15-~~ "Retailer" means every person engaged in the business of
8 making sales at retail, or for distribution, use, consumption, or
9 storage to be used or consumed in this Commonwealth.

10 ~~16-~~ "Sale" means any transfer of title or possession, or both,
11 exchange, barter, lease or rental, conditional or otherwise, in any
12 manner or by any means whatsoever, of tangible personal property and
13 any rendition of a taxable service for a consideration, and includes
14 the fabrication of tangible personal property for consumers who
15 furnish, either directly or indirectly, the materials used in
16 fabrication, and the furnishing, preparing, or serving for a
17 consideration of any tangible personal property consumed on the
18 premises of the person furnishing, preparing, or serving such tangible
19 personal property. A transaction whereby the possession of property is
20 transferred but the seller retains title as security for the payment
21 of the price shall be deemed a sale.

22 ~~17-~~ "Sales price" means the total amount for which tangible
23 personal property or services are sold, including any services that
24 are a part of the sale, valued in money, whether paid in money or
25 otherwise, and includes any amount for which credit is given to the
26 purchaser, consumer, or lessee by the dealer, without any deduction
27 therefrom on account of the cost of the property sold, the cost of
28 materials used, labor or service costs, losses or any other expenses

1 whatsoever. "Sales price" shall not include (i) any cash discount
2 allowed and taken, ~~(ii) an amount separately charged for labor or~~
3 ~~services rendered in installing, applying, or remodeling or repairing~~
4 ~~property sold, (iii) or (ii) finance charges, carrying charges,~~
5 service charges or interest from credit extended on sales of tangible
6 personal property under conditional sale contracts or other
7 conditional contracts providing for deferred payments of the purchase
8 price, ~~(iv) transportation charges separately stated, (v) separately~~
9 ~~stated charges for alterations to apparel, clothing and garments, (vi)~~
10 ~~charges for gift wrapping services performed by a nonprofit~~
11 ~~organization or (vii) an amount separately charged for labor or~~
12 ~~services rendered in connection with the modification of prewritten~~
13 ~~programs as defined in subdivision 25 of this section. Where used~~
14 articles are taken in trade, or in a series of trades as a credit or
15 part payment on the sale of new or used articles, the tax levied by
16 this chapter shall be paid on the net difference between the sales
17 price of the new or used articles and the credit for the used
18 articles.

19 ~~18-~~ "Storage" means any keeping or retention of tangible
20 personal property for use, consumption or distribution in this
21 Commonwealth, or for any purpose other than sale at retail in the
22 regular course of business.

23 ~~19-~~ "Tangible personal property" means personal property which
24 may be seen, weighed, measured, felt, or touched, or is in any other
25 manner perceptible to the senses. The term "tangible personal
26 property" shall not include stocks, bonds, notes, insurance or other
27 obligations or securities ~~or custom programs as defined in subdivision~~
28 ~~24 of this section.~~

1 20- "Use" means the exercise of any right or power over tangible
2 personal property incident to the ownership thereof, except that it
3 does not include the sale at retail of that property in the regular
4 course of business.

5 21- "Use tax" refers to the tax imposed upon the use,
6 consumption, distribution, and storage as herein defined.

7 22- "Used directly," when used in relation to manufacturing,
8 processing, refining, or conversion, refers to those activities which
9 are an integral part of the production of a product, including all
10 steps of an integrated manufacturing or mining process, but not
11 including ancillary activities such as general maintenance or
12 administration. When used in relation to mining, it shall refer to the
13 activities specified above, and in addition, any reclamation activity
14 of the land previously mined by the mining company required by state
15 or federal law.

16 23- "Advertising" means the planning, creating, or placing of
17 advertising in newspapers, magazines, billboards, broadcasting and
18 other media, including, without limitation, the providing of concept,
19 writing, graphic design, mechanical art, photography and production
20 supervision. Any person providing advertising as defined herein shall
21 be deemed to be the user or consumer of all tangible personal property
22 purchased for use in such advertising.

23 24- "Custom program" means a computer program which is
24 specifically designed and developed only for one customer. The
25 combining of two or more prewritten programs does not constitute a
26 custom computer program. A prewritten program that is modified to any
27 degree remains a prewritten program and does not become custom.

28 25- "Prewritten program" means a computer program that is

1 prepared, held or existing for general or repeated sale or lease,
2 including a computer program developed for in-house use and
3 subsequently sold or leased to unrelated third parties.

4 § 58.1-608. Exclusions and exemptions.--The tax imposed by this
5 chapter or pursuant to the authority granted in §§ 58.1-605 and
6 58.1-606 shall not apply to the following:

7 1- (a) industrial materials for future processing, manufacturing,
8 refining, or conversion into articles of tangible personal property
9 for resale where such industrial materials either enter into the
10 production of or become a component part of the finished product, (b)
11 industrial materials that are coated upon or impregnated into the
12 product at any stage of its processing, manufacture, refining, or
13 conversion for resale, (c) machinery or tools or repair parts therefor
14 or replacements thereof, fuel, power, energy, or supplies, used
15 directly in processing, manufacturing, refining, mining or conversion
16 of products for sale or resale, (d) materials, containers, labels,
17 sacks, cans, boxes, drums or bags for future use for packaging
18 tangible personal property for shipment or sale, or (e) equipment,
19 printing or supplies used directly to produce a publication described
20 in subdivision 13 whether it is ultimately sold at retail or for
21 resale or distribution at no cost. Machinery, tools and equipment, or
22 repair parts therefor or replacements thereof, shall be exempt if the
23 preponderance of their use is used directly in processing,
24 manufacturing, refining, mining or conversion of products for sale or
25 resale.

26 2- Professional, insurance, or personal service transactions
27 which involve sales as inconsequential elements for which no separate
28 charges are made, nor services rendered by repairmen for which a

1 separate charge is made-

2 3- Commercial feeds, seeds, plants, fertilizers, liming
3 materials, breeding and other livestock, semen, breeding fees, baby
4 chicks, turkey poult, agricultural chemicals, fuel for drying or
5 curing crops, baler twine, containers for fruit and vegetables, farm
6 machinery, all other tangible personal property, except for structural
7 construction materials, necessary for use in agricultural production
8 for market and sold to or purchased by a farmer or contractor to be
9 affixed to real property owned or leased by a farmer, agricultural
10 supplies provided the same are sold to and purchased by farmers for
11 use in agricultural production, including fish and worm farming for
12 market-

13 4- Every agricultural commodity or kind of seafood sold or
14 distributed by any person to any other person who purchases not for
15 direct consumption but for the purpose of acquiring raw products for
16 use or consumption in the process of preparing, finishing, or
17 manufacturing such agricultural or seafood commodity for the ultimate
18 retail consumer trade, except when such agricultural or seafood
19 commodity is actually sold or distributed as a marketable or finished
20 product to the ultimate consumer. The term "agricultural commodity,"
21 for the purposes of this subdivision, shall mean horticultural,
22 poultry, and farm products, and livestock and livestock products-

23 5- Livestock and livestock products, poultry and poultry
24 products, farm and agricultural products, when produced by the farmer
25 and used or consumed by him and the members of his family-

26 6- Motor vehicle fuels which are subject to the tax imposed by
27 Chapter 21. Persons who are refunded any such motor fuel tax or
28 special fuel tax shall, however, be subject to the tax imposed by this

1 chapter, unless such taxes would be specifically exempted pursuant to
2 any provision of this section:

3 7. Motor vehicles, trailers, and semitrailers, mobile homes and
4 travel trailers:

5 8. Gas, electricity, or water when delivered to consumers through
6 mains, lines, or pipes:

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

19 10. (Effective until January 1, 1989) Tangible personal property
20 sold or leased to a public service corporation subject to a state
21 franchise or license tax upon gross receipts, for use or consumption
22 by such corporation directly in the rendition of its public service,
23 and tangible personal property sold or leased to a public service
24 corporation engaged in business as a common carrier of property or
25 passengers by motor vehicle or railway, for use or consumption by such
26 common carrier directly in the rendition of its public service:

27 10. (Effective January 1, 1989) Tangible personal property sold
28 or leased to (+) a public service corporation subject to a state

1 franchise or license tax upon gross receipts; (ii) a
2 telecommunications company as defined in § 58-1-400-1 or (iii) a
3 telephone company chartered in the Commonwealth which is exclusively a
4 local mutual association and is not designated to accumulate profits
5 for the benefit of, or to pay dividends to, the stockholders or
6 members thereof, for use or consumption by such corporation, company,
7 person or mutual association directly in the rendition of its public
8 service; and tangible personal property sold or leased to a public
9 service corporation engaged in business as a common carrier of
10 property or passengers by motor vehicle or railway, for use or
11 consumption by such common carrier directly in the rendition of its
12 public service.

13 11. Ships or vessels used or to be used exclusively or
14 principally in interstate or foreign commerce, or repairs and
15 alterations thereof, or fuel and supplies for use or consumption
16 aboard ships or vessels plying the high seas, either in interoastal
17 trade between ports in the Commonwealth and ports in other states of
18 the United States or its territories or possessions, or in foreign
19 commerce between ports in the Commonwealth and ports in foreign
20 countries, when delivered directly to such ships or vessels; or
21 tangible personal property used directly in the building, conversion
22 or repair of the ships or vessels covered by this subdivision 11-

23 12. Broadcasting equipment and parts and accessories thereto and
24 towers used or to be used by commercial radio and television
25 companies; cable television systems; or concerns which are under the
26 regulation and supervision of the Federal Communications Commission
27 and amplification, transmission and distribution equipment used or to
28 be used by cable television systems.

1 13- Any publication issued daily, or regularly at average
2 intervals not exceeding three months, and advertising supplements and
3 any other printed matter ultimately distributed with or as part of
4 such publications, except that newsstand sales of the same are
5 taxable.

6 14- School lunches sold and served to pupils and employees of
7 schools and subsidized by government, and school textbooks sold by a
8 local board or authorized agency thereof, and school textbooks sold
9 for use by students attending a college or other institution of
10 learning not conducted for profit, when sold (i) by such institution
11 of learning, or (ii) by any other dealer, when such textbooks have
12 been certified by a department or instructor of such institution of
13 learning as required textbooks for students attending courses at such
14 institution.

15 15- An occasional sale, as defined in subdivision 12 of §
16 58-1-602.

17 16- Tangible personal property for future use by a person for
18 taxable lease or rental as an established business or part of an
19 established business, or incidental or germane to such business,
20 including a simultaneous purchase and taxable leaseback.

21 17- Alcoholic beverages sold by the Virginia Alcoholic Beverage
22 Control Board through its government stores.

23 18- Tangible personal property for use or consumption by the
24 Commonwealth, any political subdivision of the Commonwealth, or the
25 United States. This exclusion shall not apply to sales and leases to
26 privately owned financial and other privately owned corporations
27 chartered by the United States.

28 19- Tangible personal property purchased for use or consumption

1 directly and exclusively in basic research or research and development
2 in the experimental or laboratory sense.

3 20. Delivery of tangible personal property outside the
4 Commonwealth for use or consumption outside of the Commonwealth.
5 Delivery of goods destined for foreign export to a factor or export
6 agent shall be deemed to be delivery of goods for use or consumption
7 outside of the Commonwealth.

8 21. Medicines, drugs, hypodermic syringes, artificial eyes,
9 contact lenses, eyeglasses and hearing aids dispensed by or sold on
10 prescriptions or work orders of licensed physicians, dentists,
11 optometrists, ophthalmologists, opticians, audiologists, hearing aid
12 dealers and fitters, and veterinarians, and controlled drugs purchased
13 by a licensed physician for use in his professional practice. Any
14 veterinarian dispensing or selling medicines or drugs on prescription
15 shall be deemed to be the user or consumer of all such medicines and
16 drugs.

17 22. Wheelchairs and parts therefor, braces, crutches, prosthetic
18 devices, orthopedic appliances, catheters, urinary accessories, and
19 other durable medical equipment and devices, and related parts and
20 supplies specifically designed for these products, insulin and insulin
21 syringes, and equipment, devices or chemical reagents which may be
22 used by a diabetic to test or monitor blood or urine, when such items
23 or parts are purchased by or on behalf of an individual for use by
24 such individual. Durable medical equipment is equipment which (1) can
25 withstand repeated use, (2) is primarily and customarily used to serve
26 a medical purpose, (3) generally is not useful to a person in the
27 absence of illness or injury, and (4) is appropriate for use in the
28 home.

1 22a- Drugs and supplies used in hemodialysis and peritoneal
2 dialysis-

3 23- Tangible personal property for use or consumption by a
4 college or other institution of learning; a hospital; a licensed
5 nursing home or a licensed nonprofit nonstock home for adults as
6 defined by subsection A of § 63-1-172; and tangible personal property
7 (i) for use or consumption by; (ii) sold by; or (iii) donated to (a) a
8 noncommercial educational telecommunications entity; or (b) a food
9 bank or organization exempt from taxation pursuant to § 501 (c) (3) of
10 the Internal Revenue Code and organized and operated exclusively for
11 the distribution of foods to infants; the ill; or the needy; said
12 exemptions to apply to each transaction in the chain of commerce from
13 manufacture to final disposition; provided such college; institution
14 of learning; telecommunications entity; food bank or organization;
15 hospital; licensed nursing home or home for adults is not conducted
16 for profit-

17 23a- Tangible personal property for use or consumption by
18 community health centers exempt from taxation under § 501 (c) (3) of
19 the Internal Revenue Code and established for the purpose of providing
20 health care services for areas of the Commonwealth containing a
21 medically underserved population as defined by 42 U.S.C. § 254 e (b)
22 (3)-

23 24- Tangible personal property purchased by an organization
24 exempt from taxation under § 501 (c) (3) of the Internal Revenue Code
25 and organized exclusively for the purpose of providing education;
26 training and services to retarded citizens of the Commonwealth;
27 provided such property is used exclusively for the purpose set forth
28 herein and further provided that such organization receives more than

1 fifty percent of its total funding from federal, state, or local
2 governments.

3 25. Tangible personal property and services purchased by an
4 educational institution doing business in the Commonwealth which (i)
5 admits regularly enrolled high school and college students, and (ii)
6 provides a face-to-face educational experience in American government,
7 a program which leads towards the successful completion of United
8 States history, civics, and problems in democracy courses in high
9 school, or which is acceptable for full credit towards an
10 undergraduate or graduate level college degree, provided such
11 institution is conducted not for profit.

12 26. Tangible personal property sold or leased to an airline
13 operating in intrastate, interstate or foreign commerce as a common
14 carrier providing scheduled air service on a continuing basis to one
15 or more Virginia airports for use or consumption by such airline
16 directly in the rendition of its common carrier service. As used in
17 this subdivision "scheduled air service" shall be defined pursuant to
18 the provisions of § 58-1-1501.

19 27. Tangible personal property purchased for use or consumption
20 by a volunteer fire department or volunteer rescue squad not conducted
21 for profit, and construction materials to be incorporated into realty
22 when sold to and used by such organization, rather than a contractor,
23 in construction, maintenance, or repair of any property of such
24 organization.

25 28. Machinery, tools, equipment, materials or repair parts
26 therefor or replacement thereof, fuel or supplies, fishing boats not
27 otherwise exempt under this section, marine engines installed thereon
28 or outboard motors used thereon, and all replacement or repair parts

1 in connection therewith, provided the same are sold to and purchased
2 by watermen for use by them in extracting fish, bivalves or
3 crustaceans from waters for commercial purposes.

4 29- Aircraft subject to tax under Chapter 15 of this title.

5 30- Catalogs, letters, brochures, reports, and similar printed
6 materials, except administrative supplies, the envelopes, containers
7 and labels used for packaging and mailing same, and paper furnished to
8 a printer for fabrication into such printed materials, when stored for
9 twelve months or less in the Commonwealth and distributed for use
10 without the Commonwealth. As used in this subdivision, "administrative
11 supplies" shall include, but not be limited to, letterhead, envelopes,
12 and other stationery, invoices, billing forms, payroll forms, price
13 lists, time cards, computer cards, and similar supplies.

14 31- Motor fuels and special fuels for use in a boat or boats or a
15 ship or ships, upon which a motor fuel tax is refunded pursuant to §
16 58-1-2113, and upon which a special fuel tax is refunded pursuant to §
17 58-1-2122.

18 32- Meals furnished by restaurants or food service operators to
19 employees as a part of wages.

20 33- Special equipment installed on a motor vehicle when purchased
21 by a handicapped person to enable such person to operate such motor
22 vehicle.

23 34- Sales by a government agency of the official flags of the
24 United States, the Commonwealth of Virginia, or of any county, city or
25 town.

26 35- Materials furnished by the State Board of Elections pursuant
27 to subdivision (8), (9), or (10) of § 24-1-23.

28 36- Books and other reading materials for use by nonprofit

1 organizations organized solely to distribute such books and reading
2 materials to school-age children.

3 37. Machinery or tools or repair parts therefor or replacements
4 thereof, fuel, power, energy or supplies, and cereal grains and other
5 feed ingredients, including, but not limited to, drugs, vitamins,
6 minerals, nonprotein nitrogen, and other supplements or additives,
7 used directly in making feed for sale or resale. Making of feed shall
8 include the mixing of liquid ingredients.

9 38. Tangible personal property, except property used in any form
10 of recording and reproducing services, purchased by churches organized
11 not for profit and (i) which are exempt from taxation under § 501 (c)
12 (3) of the Internal Revenue Code or (ii) whose real property is exempt
13 from local taxation pursuant to the provisions of § 58-1-3606, for use
14 (i) in religious worship services by a congregation or church
15 membership while meeting together in a single location, and (ii) in
16 the libraries, offices, meeting or counseling rooms or other rooms in
17 the public church buildings used in carrying out the work of the
18 church and its related ministries, including kindergarten, elementary
19 and secondary schools. The exemption for such churches shall also
20 include baptistries, bulletins, programs, newspapers and newsletters
21 which do not contain paid advertising and are used in carrying out the
22 work of the church, gifts for distribution outside the public church
23 building, and food, disposable serving items, cleaning supplies and
24 teaching materials used in the operation of camps or conference
25 centers by the church or an organization composed of churches that are
26 exempt under this subdivision and which are used in carrying out the
27 work of the church or churches.

28 39. Tangible personal property including machinery, tools, repair

1 parts, or replacements thereof, and supplies and materials used
2 directly in maintaining and preparing textile products for rental or
3 leasing by an industrial processor engaged in the commercial leasing
4 or renting of laundered textile products.

5 40. Historical documents, maps, rare books and manuscripts
6 acquired by a nonprofit state historical society which maintains a
7 research library open to the public for research and educational
8 purposes without charge.

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

15 42. Watercraft as defined in § 58-1-1401.

16 43. Tangible personal property used in and about a marine
17 terminal under the supervision of the Virginia Port Authority for
18 handling cargo, merchandise, freight and equipment. This exemption
19 shall apply to agents, lessees, sublessees or users of tangible
20 personal property owned by or leased to the Virginia Port Authority.

21 44. Tangible personal property purchased for use or consumption
22 by (i) a nonprofit museum of fine arts which is located on property
23 owned by a city in Virginia and which receives more than one-half its
24 operating budget from appropriations by the city or (ii) a nonprofit
25 science-technology museum which receives operating funds from the
26 Commonwealth in an amount which represents at least ten percent of
27 such museum's operating budget.

28 45. Tangible personal property sold or leased for use in

1 nonprofit nutrition programs for the elderly qualifying under 42
2 U.S.C. § 3030 (e) through 3030 (g); as amended; as administered by the
3 Virginia Department for the Aging; and the food and food products sold
4 under such programs to elderly persons.

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

12 47. Sales by prisoners confined in state correctional facilities
13 of artistic products personally made by the prisoners as authorized by
14 § 53-1-46.

15 48. Tangible personal property purchased for use by a nonprofit;
16 nonstock corporation which receives no financial aid from the
17 Commonwealth or the federal government and is organized exclusively
18 for the purpose of operating; at no charge to the pupils; a
19 combination boarding and day school for the severely physically
20 handicapped children and young adults of the Commonwealth.

21 49. Tangible nonmedical personal property purchased by a
22 nonprofit organization organized exclusively for the purpose of
23 providing housing and ancillary assistance for children suffering from
24 leukemia or oncological diseases; for other ill children; and for the
25 families of such children during periods of medical treatment of such
26 children at any hospital in the Commonwealth.

27 50. Tangible personal property purchased by a voluntary health
28 organization exempt from taxation under § 501 (c) (3) of the Internal

1 Revenue Code and organized exclusively for the purpose of providing
2 direct therapeutic and rehabilitative services, such as speech
3 therapy, physical therapy, and camping and recreational activities, to
4 the children and adults of the Commonwealth regardless of the nature
5 of their disease or socio-economic position.

6 51. Machinery or tools and repair parts therefor or replacements
7 thereof, fuel, power, energy or supplies, used directly in the
8 harvesting of forest products for sale or for use as a component part
9 of a product to be sold.

10 52. Certified pollution control equipment and facilities as
11 defined in § 58-1-3660.

12 53. Tangible personal property for use or consumption by the
13 Virginia Department for the Visually Handicapped or any nominee, as
14 defined in § 63-1-142, of such Department. (Also see § 63-1-164, which
15 provides a more detailed explanation of the exemption.)

16 54. Parts, tires, meters and dispatch radios sold or leased to
17 taxicab operators for use or consumption directly in the rendition of
18 their services.

19 55. Tangible personal property purchased for the use or
20 consumption of a nonstock corporation, exempt from taxation under §
21 501 (c) (3) of the Internal Revenue Code, whose principal activity is
22 conducted on real property owned by any city in the Commonwealth,
23 organized exclusively for the purpose of operating, managing,
24 promoting and improving a public park and museum for recreational and
25 educational purposes.

26 56. Special typewriters and computers and related parts and
27 supplies specifically designed for those products used by handicapped
28 persons to communicate when such equipment is prescribed by a licensed

1 physician-

2 57- Advertising as defined by subdivision 23 of § 58-1-602-

3 58- Tangible personal property purchased for charitable or
4 educational purposes by an organization exempt under § 501 (c) (3) of
5 the Internal Revenue Code and organized exclusively (i) to care for
6 the spiritual needs of American Indians, (ii) to communicate to the
7 non-Indian the values, customs, philosophy and special needs of the
8 American Indian, (iii) to meet the urgent needs of American Indians
9 through nationwide charitable distribution programs, and (iv) to
10 encourage awareness of American Indian arts, crafts and customs
11 provided such property is distributed by the organization through its
12 nationwide charitable distribution program-

13 59- Tangible personal property withdrawn from inventory and
14 donated to (i) an organization exempt from taxation under § 501 (c)
15 (3) of the Internal Revenue Code, or (ii) the Commonwealth, any
16 political subdivision of the Commonwealth, or any school, agency or
17 instrumentality thereof-

18 60- Tangible personal property purchased by an organization which
19 is exempt from taxation under § 501 (c) (3) of the Internal Revenue
20 Code and which is organized primarily to distribute, during the
21 Christmas season, food, toys, and clothing to persons in financial
22 need, provided such tangible personal property is distributed at no
23 cost to financially needy persons-

24 61- Tangible personal property, including food and food products,
25 purchased for use or consumption by a residential youth shelter
26 organization exempt from taxation under § 501 (c) (3) of the Internal
27 Revenue Code provided such organization is organized exclusively for
28 maintaining and operating group homes for the shelter and care of

1 abused and neglected children in the Commonwealth on a long-term or
2 short-term basis.

3 62. Tangible personal property sold or leased to a foundation
4 which exclusively provides either training and education of any type
5 or duration for employees of governmental law-enforcement and
6 corrections agencies or education of the public in citizen cooperation
7 with public authorities in crime prevention and solution, provided
8 such foundation is conducted not for profit.

9 63. Tangible personal property purchased for use, consumption, or
10 sale at retail by an elementary or secondary school conducted not for
11 profit, or Parent Teacher Association or other group associated with
12 an elementary or secondary school conducted not for profit for use in
13 fund-raising activities, the net proceeds (gross receipts less direct
14 expenses) of which are contributed directly to the school or used to
15 purchase certified school equipment, and certified school equipment
16 purchased by such groups for contribution directly to the school. For
17 the purposes of this subdivision, "certified school equipment" shall
18 mean that equipment for which the Parent Teacher Association or other
19 group has received certification from the school that it will accept a
20 donation of equipment. The certification provided by the school shall
21 be in accordance with regulations promulgated by the Tax Commissioner.
22 Notwithstanding the other provisions of this subdivision, the tax
23 shall not apply to the sale of class rings, school photographs, and
24 other fund-raising programs from which an elementary or secondary
25 school conducted not for profit receives a commission or the net
26 proceeds after the payment of vendors and other direct expenses.

27 64. High speed electrostatic duplicators or any other duplicators
28 which have a printing capacity of 4,000 impressions or more per hour

1 purchased or leased by persons engaged primarily in the printing or
2 photocopying of products for sale or resale.

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

7 66. Tangible personal property purchased for use or consumption
8 by health maintenance organizations licensed under Chapter 43 (§
9 38-2-4300 et seq.) of Title 38-2 which are exempt from taxation under
10 § 501 (c) (3) of the Internal Revenue Code.

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

16 68. Tangible personal property for use or consumption by a
17 nonprofit nonstock corporation, which is exempt from taxation under §
18 501 (c) (3) of the Internal Revenue Code, and which is organized under
19 the laws of the Commonwealth exclusively for the purpose of conducting
20 a clinic furnishing free health care services by licensed physicians
21 and dentists.

22 1. Governmental and commodities exemptions:

23 a. Motor vehicle fuels which are subject to the tax imposed by
24 Chapter 21. Persons who are refunded any such motor fuel tax or
25 special fuel tax shall, however, be subject to the tax imposed by this
26 chapter, unless such taxes would be specifically exempted pursuant to
27 any provision of this section.

28 b. Motor vehicles, trailers, and semitrailers, mobile homes and

1 travel trailers.

2 c. Gas, electricity, or water when delivered to consumers through
3 mains, lines, or pipes.

4 d. Alcoholic beverages sold by the Virginia Alcoholic Beverage
5 Control Board through its government stores.

6 e. Tangible personal property for use or consumption by the
7 Commonwealth, any political subdivision of the Commonwealth, or the
8 United States. This exclusion shall not apply to sales and leases to
9 privately owned financial and other privately owned corporations
10 chartered by the United States.

11 f. Aircraft subject to tax under Chapter 15 of this title.

12 g. Motor fuels and special fuels for use in a boat or boats or a
13 ship or ships, upon which a motor fuel tax is refunded pursuant to §
14 58.1-2113, and upon which a special fuel tax is refunded pursuant to §
15 58.1-2122.

16 h. Sales by a government agency of the official flags of the
17 United States, the Commonwealth of Virginia, or of any county, city or
18 town.

19 i. Materials furnished by the State Board of Elections pursuant
20 to subdivision (8), (9), or (10) of § 24.1-23.

21 j. Watercraft as defined in § 58.1-1401.

22 k. Tangible personal property used in and about a marine terminal
23 under the supervision of the Virginia Port Authority for handling
24 cargo, merchandise, freight and equipment. This exemption shall apply
25 to agents, lessees, sublessees or users of tangible personal property
26 owned by or leased to the Virginia Port Authority.

27 l. Sales by prisoners confined in state correctional facilities
28 of artistic products personally made by the prisoners as authorized by

1 § 53.1-46.

2 m. Tangible personal property for use or consumption by the
3 Virginia Department for the Visually Handicapped or any nominee, as
4 defined in § 63.1-142, of such Department. (Also see § 63.1-164, which
5 provides a more detailed explanation of the exemption.)

6 2. Agricultural exemptions:

7 a. Commercial feeds, seeds, plants, fertilizers, liming
8 materials, breeding and other livestock, semen, breeding fees, baby
9 chicks, turkey poults, agricultural chemicals, fuel for drying or
10 curing crops, baler twine, containers for fruit and vegetables, farm
11 machinery, all other tangible personal property, except for structural
12 construction materials, necessary for use in agricultural production
13 for market and sold to or purchased by a farmer or contractor to be
14 affixed to real property owned or leased by a farmer; agricultural
15 supplies provided the same are sold to and purchased by farmers for
16 use in agricultural production, including fish and worm farming for
17 market.

18 b. Every agricultural commodity or kind of seafood sold or
19 distributed by any person to any other person who purchases not for
20 direct consumption but for the purpose of acquiring raw products for
21 use or consumption in the process of preparing, finishing, or
22 manufacturing such agricultural or seafood commodity for the ultimate
23 retail consumer trade, except when such agricultural or seafood
24 commodity is actually sold or distributed as a marketable or finished
25 product to the ultimate consumer. The term "agricultural commodity,"
26 for the purposes of this subdivision, shall mean horticultural,
27 poultry, and farm products, and livestock and livestock products.

28 c. Livestock and livestock products, poultry and poultry

1 products, farm and agricultural products, when produced by the farmer
2 and used or consumed by him and the members of his family.

3 d. Machinery, tools, equipment, materials or repair parts
4 therefor or replacement thereof, fuel or supplies, fishing boats not
5 otherwise exempt under this section, marine engines installed thereon
6 or outboard motors used thereon, and all replacement or repair parts
7 in connection therewith, provided the same are sold to and purchased
8 by watermen for use by them in extracting fish, bivalves or
9 crustaceans from waters for commercial purposes.

10 e. Machinery or tools or repair parts therefor or replacements
11 thereof, fuel, power, energy or supplies, and cereal grains and other
12 feed ingredients, including, but not limited to, drugs, vitamins,
13 minerals, nonprotein nitrogen, and other supplements or additives,
14 used directly in making feed for sale or resale. Making of feed shall
15 include the mixing of liquid ingredients.

16 f. Machinery or tools and repair parts therefor or replacements
17 thereof, fuel, power, energy or supplies, used directly in the
18 harvesting of forest products for sale or for use as a component part
19 of a product to be sold.

20 3. Service exemptions:

21 a. Professional, insurance, or personal service transactions
22 which involve sales as inconsequential elements for which no separate
23 charges are made, nor services rendered by repairmen for which a
24 separate charge is made.

25 b. An amount separately charged for labor or services rendered in
26 installing, applying or remodeling or repairing property sold.

27 c. Transportation charges separately stated.

28 d. Separately stated charges for alterations to apparel, clothing

1 and garments.

2 e. Charges for gift wrapping services performed by a nonprofit
3 organization.

4 f. An amount separately charged for labor or services rendered in
5 connection with the modification of prewritten programs as defined in
6 § 58.1-602.

7 g. Custom programs as defined in § 58.1-602.

8 h. The sale or charges for any room or rooms, lodgings, or
9 accommodations furnished to transients for more than ninety continuous
10 days by any hotel, motel, inn, tourist camp, tourist cabin, camping
11 grounds, club, or any other place in which rooms, lodging, space or
12 accommodations are regularly furnished to transients for a
13 consideration.

14 4. Media-related exemptions:

15 a. Leasing, renting or licensing of copyright audio or video
16 tapes, and films for public exhibition at motion picture theatres or
17 by licensed radio and television stations.

18 b. Broadcasting equipment and parts and accessories thereto and
19 towers used or to be used by commercial radio and television
20 companies, cable television systems, or concerns which are under the
21 regulation and supervision of the Federal Communications Commission
22 and amplification, transmission and distribution equipment used or to
23 be used by cable television systems.

24 c. Any publication issued daily, or regularly at average
25 intervals not exceeding three months, and advertising supplements and
26 any other printed matter ultimately distributed with or as part of
27 such publications, except that newsstand sales of the same are
28 taxable.

1 d. Catalogs, letters, brochures, reports, and similar printed
2 materials, except administrative supplies, the envelopes, containers
3 and labels used for packaging and mailing same, and paper furnished to
4 a printer for fabrication into such printed materials, when stored for
5 twelve months or less in the Commonwealth and distributed for use
6 without the Commonwealth. As used in this subdivision, "administrative
7 supplies" shall include, but not be limited to, letterhead, envelopes,
8 and other stationery, invoices, billing forms, payroll forms, price
9 lists, time cards, computer cards, and similar supplies.

10 e. Advertising as defined in § 58.1-602.

11 5. Commercial and industrial exemptions:

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

17 b. (i) Industrial materials for future processing, manufacturing,
18 refining, or conversion into articles of tangible personal property
19 for resale where such industrial materials either enter into the
20 production of or become a component part of the finished product; (ii)
21 industrial materials that are coated upon or impregnated into the
22 product at any stage of its processing, manufacture, refining, or
23 conversion for resale; (iii) machinery or tools or repair parts
24 therefor or replacements thereof, fuel, power, energy, or supplies,
25 used directly in processing, manufacturing, refining, mining or
26 conversion of products for sale or resale; (iv) materials, containers,
27 labels, sacks, cans, boxes, drums or bags for future use for packaging
28 tangible personal property for shipment or sale; or (v) equipment,

1 printing or supplies used directly to produce a publication described
2 in subdivision 4c whether it is ultimately sold at retail or for
3 resale or distribution at no cost. Machinery, tools and equipment, or
4 repair parts therefor or replacements thereof, shall be exempt if the
5 preponderance of their use is used directly in processing,
6 manufacturing, refining, mining or conversion of products for sale or
7 resale.

8 c. Tangible personal property sold or leased to (i) a public
9 service corporation subject to a state franchise or license tax upon
10 gross receipts, (ii) a telecommunications company as defined in §
11 58.1-400.1 or (iii) a telephone company chartered in the Commonwealth
12 which is exclusively a local mutual association and is not designated
13 to accumulate profits for the benefit of, or to pay dividends to, the
14 stockholders or members thereof, for use or consumption by such
15 corporation, company, person or mutual association directly in the
16 rendition of its public service, and tangible personal property sold
17 or leased to a public service corporation engaged in business as a
18 common carrier of property or passengers by motor vehicle or railway,
19 for use or consumption by such common carrier directly in the
20 rendition of its public service.

21 d. Ships or vessels used or to be used exclusively or principally
22 in interstate or foreign commerce, or repairs and alterations thereof;
23 or fuel and supplies for use or consumption aboard ships or vessels
24 plying the high seas, either in intercoastal trade between ports in
25 the Commonwealth and ports in other states of the United States or its
26 territories or possessions, or in foreign commerce between ports in
27 the Commonwealth and ports in foreign countries, when delivered
28 directly to such ships or vessels; or tangible personal property used

1 directly in the building, conversion or repair of the ships or vessels
2 covered by this subdivision.

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

6 f. Tangible personal property sold or leased to an airline
7 operating in intrastate, interstate or foreign commerce as a common
8 carrier providing scheduled air service on a continuing basis to one
9 or more Virginia airports for use or consumption by such airline
10 directly in the rendition of its common carrier service. As used in
11 this subdivision "scheduled air service" shall be defined pursuant to
12 the provisions of § 58.1-1501.

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

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

20 i. Certified pollution control equipment and facilities as
21 defined in § 58.1-3660.

22 j. Parts, tires, meters and dispatch radios sold or leased to
23 taxicab operators for use or consumption directly in the rendition of
24 their services.

25 k. High speed electrostatic duplicators or any other duplicators
26 which have a printing capacity of 4,000 impressions or more per hour
27 purchased or leased by persons engaged primarily in the printing or
28 photocopying of products for sale or resale.

- 1 6. Educational exemptions:
- 2 a. School lunches sold and served to pupils and employees of
3 schools and subsidized by government, and school textbooks sold by a
4 local board or authorized agency thereof, and school textbooks sold
5 for use by students attending a college or other institution of
6 learning not conducted for profit, when sold (i) by such institution
7 of learning, or (ii) by any other dealer, when such textbooks have
8 been certified by a department or instructor of such institution of
9 learning as required textbooks for students attending courses at such
10 institution.
- 11 b. Tangible personal property for use or consumption by a college
12 or other institution of learning, and tangible personal property for
13 use or consumption by, sold by, or donated to a noncommercial
14 educational telecommunications entity, provided that such college,
15 institution of learning, or telecommunications entity is not conducted
16 for profit.
- 17 c. Tangible personal property purchased by an organization exempt
18 from taxation under § 501 (c) (3) of the Internal Revenue Code and
19 organized exclusively for the purpose of providing education, training
20 and services to retarded citizens of the Commonwealth, provided such
21 property is used exclusively for the purpose set forth herein and
22 further provided that such organization receives more than fifty
23 percent of its total funding from federal, state, or local
24 governments.
- 25 d. Tangible personal property and services purchased by an
26 educational institution doing business in the Commonwealth which (i)
27 admits regularly enrolled high school and college students, and (ii)
28 provides a face-to-face educational experience in American government,

1 a program which leads towards the successful completion of United
2 States history, civics, and problems in democracy courses in high
3 school, or which is acceptable for full credit towards an
4 undergraduate or graduate level college degree, provided such
5 institution is conducted not for profit.

6 e. Books and other reading materials for use by nonprofit
7 organizations organized solely to distribute such books and reading
8 materials to school-age children.

9 f. Tangible personal property purchased for use by a nonprofit,
10 nonstock corporation which receives no financial aid from the
11 Commonwealth or the federal government and is organized exclusively
12 for the purpose of operating, at no charge to the pupils, a
13 combination boarding and day school for the severely physically
14 handicapped children and young adults of the Commonwealth.

15 g. Tangible personal property sold or leased to a foundation
16 which exclusively provides either training and education of any type
17 or duration for employees of governmental law-enforcement and
18 corrections agencies or education of the public in citizen cooperation
19 with public authorities in crime prevention and solution, provided
20 such foundation is conducted not for profit.

21 h. Tangible personal property purchased for use, consumption, or
22 sale at retail by an elementary or secondary school conducted not for
23 profit, or Parent Teacher Association or other group associated with
24 an elementary or secondary school conducted not for profit for use in
25 fund-raising activities, the net proceeds (gross receipts less direct
26 expenses) of which are contributed directly to the school or used to
27 purchase certified school equipment, and certified school equipment
28 purchased by such groups for contribution directly to the school. For

1 the purposes of this subdivision, "certified school equipment" shall
2 mean that equipment for which the Parent Teacher Association or other
3 group has received certification from the school that it will accept a
4 donation of equipment. The certification provided by the school shall
5 be in accordance with regulations promulgated by the Tax Commissioner.
6 Notwithstanding the other provisions of this subdivision, the tax
7 shall not apply to the sale of class rings, school photographs, and
8 other fund-raising programs from which an elementary or secondary
9 school conducted not for profit receives a commission or the net
10 proceeds after the payment of vendors and other direct expenses.

11 7. Medical-related exemptions:

12 a. Medicines, drugs, hypodermic syringes, artificial eyes,
13 contact lenses, eyeglasses and hearing aids dispensed by or sold on
14 prescriptions or work orders of licensed physicians, dentists,
15 optometrists, ophthalmologists, opticians, audiologists, hearing aid
16 dealers and fitters and veterinarians; and controlled drugs purchased
17 by a licensed physician for use in his professional practice. Any
18 veterinarian dispensing or selling medicines or drugs on prescription
19 shall be deemed to be the user or consumer of all such medicines and
20 drugs.

21 b. Wheelchairs and parts therefor, braces, crutches, prosthetic
22 devices, orthopedic appliances, catheters, urinary accessories, and
23 other durable medical equipment and devices, and related parts and
24 supplies specifically designed for those products, insulin and insulin
25 syringes, and equipment, devices or chemical reagents which may be
26 used by a diabetic to test or monitor blood or urine, when such items
27 or parts are purchased by or on behalf of an individual for use by
28 such individual. Durable medical equipment is equipment which (i) can

1 withstand repeated use, (ii) is primarily and customarily used to
2 serve a medical purpose, (iii) generally is not useful to a person in
3 the absence of illness or injury, and (iv) is appropriate for use in
4 the home.

5 c. Drugs and supplies used in hemodialysis and peritoneal
6 dialysis.

7 d. Tangible personal property for use or consumption by a
8 nonprofit hospital or a nonprofit licensed nursing home.

9 e. Tangible personal property for use or consumption by community
10 health centers exempt from taxation under § 501 (c) (3) of the
11 Internal Revenue Code and established for the purpose of providing
12 health care services for areas of the Commonwealth containing a
13 medically underserved population as defined by 42 U.S.C. § 254 c (b)
14 (3).

15 f. Special equipment installed on a motor vehicle when purchased
16 by a handicapped person to enable such person to operate such motor
17 vehicle.

18 g. Tangible nonmedical personal property purchased by a nonprofit
19 organization organized exclusively for the purpose of providing
20 housing and ancillary assistance for children suffering from leukemia
21 or oncological diseases, for other ill children, and for the families
22 of such children during periods of medical treatment of such children
23 at any hospital in the Commonwealth.

24 h. Tangible personal property purchased by a voluntary health
25 organization exempt from taxation under § 501 (c) (3) of the Internal
26 Revenue Code and organized exclusively for the purpose of providing
27 direct therapeutic and rehabilitative services, such as speech
28 therapy, physical therapy, and camping and recreational activities, to

1 the children and adults of the Commonwealth regardless of the nature
2 of their disease or socio-economic position.

3 i. Special typewriters and computers and related parts and
4 supplies specifically designed for those products used by handicapped
5 persons to communicate when such equipment is prescribed by a license
6 physician.

7 j. Tangible personal property purchased for use or consumption b
8 health maintenance organizations licensed under Chapter 43 (§
9 38.2-4300 et seq.) of Title 38.2 which are exempt from taxation under
10 § 501 (c) (3) of the Internal Revenue Code.

11 k. Tangible personal property for use or consumption by a
12 nonprofit nonstock corporation, which is exempt from taxation under §
13 501 (c) (3) of the Internal Revenue Code, and which is organized unde
14 the laws of the Commonwealth exclusively for the purpose of conductin
15 a clinic furnishing free health care services by licensed physicians
16 and dentists.

17 l. Tangible personal property purchased for use or consumption b
18 any nonprofit hospital cooperative or nonprofit hospital corporation
19 organized and operated for the sole purpose of providing services
20 exclusively to nonprofit hospitals. This exemption shall not apply to
21 any nonprofit hospital, cooperative or nonprofit hospital corporation
22 providing services of any kind or to any extent to other than
23 nonprofit hospitals.

24 8. Nonprofit civic and community service exemptions:

25 a. Tangible personal property purchased for use or consumption b
26 a volunteer fire department or volunteer rescue squad not conducted
27 for profit, and construction materials to be incorporated into realty
28 when sold to and used by such organization, rather than a contractor,

1 in construction, maintenance, or repair of any property of such
2 organization.

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

2 c. Tangible personal property sold or leased for use in nonprofit
3 nutrition programs for the elderly qualifying under 42 U.S.C. § 3030
4 (e) through (g), as amended, as administered by the Virginia
5 Department for the Aging, and the food and food products sold under
6 such programs to elderly persons.

7 d. Tangible personal property bought, sold or used by Virginia
8 Federation of Humane Societies or any chartered, not-for-profit

1 organization incorporated under the laws of this Commonwealth and
2 organized for the purpose of preventing cruelty to animals and
3 promoting humane care of animals, when such property is used for the
4 operation of such organizations or the construction or maintenance of
5 animal shelters.

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

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

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

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

1 i. Tangible personal property for use or consumption by, sold by
2 or donated to a food bank or organization exempt from taxation
3 pursuant to § 501(c)(3) of the Internal Revenue Code and organized
4 exclusively for the distribution of foods to infants, the ill, or the
5 needy, said exemptions to apply to each transaction in the chain of
6 commerce from manufacture to final disposition, provided that such
7 food bank or organization is not conducted for profit.

8 j. Tangible personal property for use or consumption by a
9 licensed nonprofit home for adults as defined in subdivision A of §
10 63.1-172.

11 9. Nonprofit cultural organization exemptions:

12 a. Historical documents, maps, rare books and manuscripts
13 acquired by a nonprofit state historical society which maintains a
14 research library open to the public for research and educational
15 purposes without charge.

16 b. Tangible personal property purchased for use or consumption by
17 (i) a nonprofit museum of fine arts which is located on property owned
18 by a city in Virginia and which receives more than one-half its
19 operating budget from appropriations by the city or (ii) a nonprofit
20 science-technology museum which receives operating funds from the
21 Commonwealth in an amount which represents at least ten percent of
22 such museum's operating budget.

23 c. Tangible personal property purchased for the use or
24 consumption of a nonstock corporation, exempt from taxation under §
25 501 (c) (3) of the Internal Revenue Code, whose principal activity is
26 conducted on real property owned by any city in the Commonwealth,
27 organized exclusively for the purpose of operating, managing,
28 promoting and improving a public park and museum for recreational and

1 educational purposes.

2 d. Tangible personal property purchased for charitable or
3 educational purposes by an organization exempt under § 501 (c) (3) of
4 the Internal Revenue Code and organized exclusively (i) to care for
5 the spiritual needs of American Indians, (ii) to communicate to the
6 non-Indian the values, customs, philosophy and special needs of the
7 American Indian, (iii) to meet the urgent needs of American Indians
8 through nationwide charitable distribution programs, and (iv) to
9 encourage awareness of American Indian arts, crafts and customs
10 provided such property is distributed by the organization through its
11 nationwide charitable distribution program.

12 10. Miscellaneous exemptions:

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

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

26 c. Tangible personal property for future use by a person for
27 taxable lease or rental as an established business or part of an
28 established business, or incidental or germane to such business,

1 including a simultaneous purchase and taxable leaseback.

2 d. Delivery of tangible personal property outside the
3 Commonwealth for use or consumption outside of the Commonwealth.

4 Delivery of goods destined for foreign export to a factor or export
5 agent shall be deemed to be delivery of goods for use or consumption
6 outside of the Commonwealth.

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

13 f. Tangible personal property purchased with food coupons issued
14 by the United States Department of Agriculture under the Food Stamp
15 Program or drafts issued through the Virginia Special Supplemental
16 Food Program for Women, Infants, and Children.

17 § 58.1-610. Contractors.--A. Any person who contracts orally, in
18 writing, or by purchase order, to perform construction,
19 reconstruction, installation, repair, or any other service with
20 respect to real estate or fixtures thereon, and in connection
21 therewith to furnish tangible personal property, shall be deemed to
22 have purchased such tangible personal property for use or consumption.
23 Any sale, distribution, or lease to or storage for such person shall
24 be deemed a sale, distribution, or lease to or storage for the
25 ultimate consumer and not for resale, and the dealer making the sale,
26 distribution, or lease to or storage for such person shall be
27 obligated to collect the tax to the extent required by this chapter.

28 B. Any person who contracts to perform services in this

1 Commonwealth and is furnished tangible personal property for use under
2 the contract by the person, or his agent or representative, for whom
3 the contract is performed, and a sales or use tax has not been paid to
4 this Commonwealth by the person supplying the tangible personal
5 property, shall be deemed to be the consumer of the tangible personal
6 property so used, and shall pay a use tax based on the fair market
7 value of the tangible personal property so used, irrespective of
8 whether or not any right, title or interest in the tangible personal
9 property becomes vested in the contractor. This subsection, however,
10 shall not apply to the industrial materials exclusion or the other
11 industrial exclusions set out in § 58.1-608, including those set out
12 in subdivisions ~~17~~, ~~107~~, ~~11~~ and ~~12~~ 4b and 5b, c and d thereof, or the
13 governmental exclusions set out in subdivision ~~18~~ 1e thereof, or the
14 agricultural exclusions set forth in subdivision ~~3~~ 2a thereof or the
15 exclusion for baptistries set forth in subdivision ~~38~~ 8b thereof.

16 C. Any person who contracts orally, in writing, or by purchase
17 order to perform any service in the nature of equipment rental, and
18 the principal part of that service is the furnishing of equipment or
19 machinery which will not be under the exclusive control of the
20 contractor, shall be liable for the sales or use tax on the gross
21 proceeds from such contract to the same extent as the lessor of
22 tangible personal property.

23 D. Tangible personal property incorporated in real property
24 construction which loses its identity as tangible personal property
25 shall be deemed to be tangible personal property used or consumed
26 within the meaning of this section. Any person selling fences,
27 venetian blinds, window shades, awnings, storm windows and doors,
28 floor coverings (as distinguished from the floors themselves),

1 cabinets, kitchen equipment, window air conditioning units or other
2 like or comparable items, shall be deemed to be a retailer of such
3 items and not a using or consuming contractor with respect to them,
4 whether he sells to and installs such items for contractors or other
5 customers and whether or not such retailer fabricates such items.

6 E. Nothing in this section shall be construed to (i) affect or
7 limit the resale exclusion provided for in this chapter, or the
8 industrial materials and other industrial exclusions set out in §
9 58.1-608 or the exclusion for baptistries set out in subdivision 3B
10 8b of § 58.1-608 or (ii) impose any sales or use tax with respect to
11 the use in the performance of contracts with the United States, this
12 Commonwealth, or any political subdivision thereof, of tangible
13 personal property owned by a governmental body which actually is not
14 used or consumed in the performance thereof.

15 ~~F. Personal property purchased by a contractor which is used~~
16 ~~solely in another state or in a foreign country, which could be~~
17 ~~purchased by such contractor for such use free from sales tax in such~~
18 ~~other state or in such foreign country, and which is stored~~
19 ~~temporarily in Virginia pending shipment to such state or country,~~
20 ~~shall not be subject to the sales or use tax.~~

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