



COMMONWEALTH of VIRGINIA
Department of Taxation

July 3, 2002

The Honorable Emmett Hanger
P. O. Box 2
Mt. Solon, Virginia 22843

Re: **Retail Sales and Use Tax**
Constituent Inquiry: School Fundraising

Dear Senator Hanger:

This is in reply to a constituent's e-mail requests concerning the application of Virginia retail sales and use tax to school fundraising transactions. I will address your constituent's questions in the order they were presented in the e-mail requests.

Code of Virginia § 58.1-609.4(8) was amended by the 2002 General Assembly (SB 20, Chapter 564 and HB 1268, Chapter 590) to extend the sunset limitation on school fundraising exemption until July 1, 2003. Nonprofit elementary and secondary schools continue to be exempt on purchases and sales related to fundraising through June 30, 2003.

The exemption in Code of Virginia § 58.1-609.4(8) for school fundraising exempts from sales and use taxes purchases and sales by nonprofit elementary and secondary schools. The same exemption applies to Parent Teacher Associations and other groups associated with nonprofit elementary and secondary schools if the following criteria are met: 1) the organization must be affiliated with a nonprofit elementary or secondary school, 2) the purchases and/or sales are for fundraising purposes on behalf of the school, and 3) the net proceeds are contributed directly to the school or used to purchase certified school equipment. While the exemption language does not require Parent Teacher Associations or similar groups to be nonprofit, the organization or group must meet the criteria listed above to use the exemption.

The last sentence in the exemption beginning "[n]otwithstanding the other provisions of this subdivision" does not negate the sunset limitation in the exemption language. The last sentence of the exemption was added by the 1987 General Assembly and expanded the exemption to include sales by private vendors of class

rings, school photographs, and similar items from which the school receives a commission. This law change was intended to eliminate situations where sales to students were exempt if made by the school but taxable if made by private vendors.

The school fundraising exemption is applicable to nonprofit elementary and secondary schools regardless of the seller's location, if the criteria specified in the exemption are met. It should also be noted that Code of Virginia §§ 58.1-609.1(4) and 58.1-609.4(2)(i) provide exemptions from sales and use taxes on purchases made by public schools and nonprofit schools, respectively.

I trust this information has addressed your concerns. If you have any questions, please feel free to contact me at (804) 786-3587.

Sincerely,



Kenneth W. Thorson
Tax Commissioner

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