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HOUSE BILL NO. 1536

Offered January 19, 2024

A BILL to amend and reenact § 58.1-609.10 of the Code of Virginia, relating to sales tax exemption; certain baby products.

Patrons—Mundon King and Price

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

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

§ 58.1-609.10. Miscellaneous exemptions.

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

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

2. An occasional sale, as defined in § 58.1-602. A nonprofit organization that is eligible to be granted an exemption on its purchases pursuant to § 58.1-609.11, and that is otherwise eligible for the exemption pursuant to this subdivision, shall be exempt pursuant to this subdivision on its sales of (i) food, prepared food and meals and (ii) tickets to events that include the provision of food, prepared food and meals, so long as such sales take place on fewer than 24 occasions in a calendar year.

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

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

5. Tangible personal property purchased with food coupons issued by the U.S. Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

6. Tangible personal property purchased for use or consumption in the performance of maintenance and repair services at Nuclear Regulatory Commission-licensed nuclear power plants located outside the Commonwealth.

7. Beginning July 1, 1997, and ending July 1, 2006, a professional's provision of original, revised, edited, reformatted or copied documents, including but not limited to documents stored on or transmitted by electronic media, to its client or to third parties in the course of the professional's rendition of services to its clientele.

8. School lunches sold and served to pupils and employees of schools and subsidized by government; school textbooks sold by a local board or authorized agency thereof; and school textbooks sold for use by students attending a college or other institution of learning, when sold (i) by such institution of learning or (ii) by any other dealer, when such textbooks have been certified by a department or instructor of such institution of learning as required textbooks for students attending courses at such institution.

9. Medicines, drugs, hypodermic syringes, artificial eyes, contact lenses, eyeglasses, eyeglass cases, and contact lens storage containers when distributed free of charge, all solutions or sterilization kits or other devices applicable to the wearing or maintenance of contact lenses or eyeglasses when distributed free of charge, and hearing aids dispensed by or sold on prescriptions or work orders of licensed physicians, dentists, optometrists, ophthalmologists, opticians, audiologists, hearing aid dealers and fitters, advanced practice registered nurses, physician assistants, and veterinarians; controlled drugs purchased for use by a licensed physician, optometrist, licensed advanced practice registered nurse, or licensed physician assistant in his professional practice, regardless of whether such practice is organized as a sole proprietorship, partnership, or professional corporation, or any other type of corporation in which the shareholders and operators are all licensed physicians, optometrists, licensed advanced practice registered nurses, or licensed physician assistants engaged in the practice of medicine, optometry, or nursing; medicines and drugs purchased for use

59 or consumption by a licensed hospital, nursing home, clinic, or similar corporation not otherwise exempt
60 under this section; and samples of prescription drugs and medicines and their packaging distributed free of
61 charge to authorized recipients in accordance with the federal Food, Drug, and Cosmetic Act (21 U.S.C.A. §
62 301 et seq., as amended).

63 10. Wheelchairs and parts therefor, braces, crutches, prosthetic devices, orthopedic appliances, catheters,
64 urinary accessories, other durable medical equipment and devices, and related parts and supplies specifically
65 designed for those products; and insulin and insulin syringes, and equipment, devices or chemical reagents
66 that may be used by a diabetic to test or monitor blood or urine, when such items or parts are purchased by or
67 on behalf of an individual for use by such individual. Durable medical equipment is equipment that (i) can
68 withstand repeated use, (ii) is primarily and customarily used to serve a medical purpose, (iii) generally is not
69 useful to a person in the absence of illness or injury, and (iv) is appropriate for use in the home.

70 11. Drugs and supplies used in hemodialysis and peritoneal dialysis.

71 12. Special equipment installed on a motor vehicle when purchased by an individual with a disability to
72 enable such individual to operate the motor vehicle.

73 13. Special typewriters and computers and related parts and supplies specifically designed for those
74 products used by individuals with disabilities to communicate when such equipment is prescribed by a
75 licensed physician.

76 14. a. (i) Any nonprescription drugs and proprietary medicines purchased for the cure, mitigation,
77 treatment, or prevention of disease in human beings and (ii) any samples of nonprescription drugs and
78 proprietary medicines distributed free of charge by the manufacturer, including packaging materials and
79 constituent elements and ingredients.

80 b. The terms "nonprescription drugs" and "proprietary medicines" shall be defined pursuant to regulations
81 promulgated by the Department of Taxation. The exemption authorized in this subdivision shall not apply to
82 cosmetics.

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

86 16. Tangible personal property purchased by nonprofit churches that are exempt from taxation under §
87 501(c)(3) of the Internal Revenue Code, or whose real property is exempt from local taxation pursuant to the
88 provisions of § 58.1-3606, for use (i) in religious worship services by a congregation or church membership
89 while meeting together in a single location and (ii) in the libraries, offices, meeting or counseling rooms or
90 other rooms in the public church buildings used in carrying out the work of the church and its related
91 ministries, including kindergarten, elementary and secondary schools. The exemption for such churches shall
92 also include baptistries; bulletins, programs, newspapers and newsletters that do not contain paid advertising
93 and are used in carrying out the work of the church; gifts including food for distribution outside the public
94 church building; food, disposable serving items, cleaning supplies and teaching materials used in the
95 operation of camps or conference centers by the church or an organization composed of churches that are
96 exempt under this subdivision and which are used in carrying out the work of the church or churches; and
97 property used in caring for or maintaining property owned by the church including, but not limited to,
98 mowing equipment; and building materials installed by the church, and for which the church does not
99 contract with a person or entity to have installed, in the public church buildings used in carrying out the work
100 of the church and its related ministries, including, but not limited to worship services; administrative rooms;
101 and kindergarten, elementary, and secondary schools.

102 17. Medical products and supplies, which are otherwise taxable, such as bandages, gauze dressings,
103 incontinence products and wound-care products, when purchased by a Medicaid recipient through a
104 Department of Medical Assistance Services provider agreement.

105 18. Beginning July 1, 2007, and ending July 1, 2012, multifuel heating stoves used for heating an
106 individual purchaser's residence. "Multifuel heating stoves" are stoves that are capable of burning a wide
107 variety of alternative fuels, including, but not limited to, shelled corn, wood pellets, cherry pits, and olive
108 pits.

109 19. Fabrication of animal meat, grains, vegetables, or other foodstuffs when the purchaser (i) supplies the
110 foodstuffs and they are consumed by the purchaser or his family, (ii) is an organization exempt from taxation
111 under § 501(c)(3) or (c)(4) of the Internal Revenue Code, or (iii) donates the foodstuffs to an organization
112 exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code.

113 20. Beginning July 1, 2018, and ending July 1, 2025, parts, engines, and supplies used for maintaining,
114 repairing, or reconditioning aircraft or any aircraft's avionics system, engine, or component parts. This
115 exemption shall not apply to tools and other equipment not attached to or that does not become a part of the
116 aircraft. For purposes of this subdivision, "aircraft" shall include both manned and unmanned systems.
117 However, for manned systems, "aircraft" shall include only aircraft with a maximum takeoff weight of at
118 least 2,400 pounds.

119 21. A gun safe with a selling price of \$1,500 or less. For purposes of this subdivision, "gun safe" means a

120 safe or vault that is (i) commercially available, (ii) secured with a digital or dial combination locking
121 mechanism or biometric locking mechanism, and (iii) designed for the storage of a firearm or of ammunition
122 for use in a firearm. "Gun safe" does not include a glass-faced cabinet. Any discount, coupon, or other credit
123 offered by the retailer or a vendor of the retailer to reduce the final price to the customer shall be taken into
124 account in determining the selling price for purposes of this exemption.

125 22. Beginning July 1, 2022, and ending July 1, 2025, prescription medicines and drugs purchased by
126 veterinarians and administered or dispensed to patients within a veterinarian-client-patient relationship as
127 defined in § 54.1-3303.

128 23. *Certain baby products, including (i) children's diapers, (ii) therapeutic or preventative creams and*
129 *wipes marketed primarily for use on the skin of children, (iii) child restraint devices or booster seats that*
130 *meet the National Highway Traffic Safety Administration's standard for child restraint systems, (iv) cribs*
131 *intended to provide sleeping accommodations for children that comply with the U.S. Consumer Product*
132 *Safety Commission's safety standard for cribs, (v) strollers meant for transporting children from infancy to*
133 *36 months of age that meet the U.S. Consumer Product Safety Commission's safety standard for carriages*
134 *and strollers, and (vi) food which purports to be or is represented for special dietary use solely as a food for*
135 *infants by reason of its simulation of human milk or its suitability as a complete or partial substitute for*
136 *human milk.*