



# **COMMONWEALTH of VIRGINIA**

*Office of the Attorney General  
Richmond 23219*

**Robert F. McDonnell**  
Attorney General

900 East Main Street  
Richmond, Virginia 23219  
804 - 786 - 2071  
804 - 371 - 8946 TDD

## **MEMORANDUM**

**To:** Andrea M. Muse, Tax Policy Analyst  
Virginia Department of Taxation

**From:** Flora T. Hezel  
Assistant Attorney General

**Date:** June 6, 2007

**Subject:** Letter of Assurance for Amending the 23 VAC 10-210-485

---

I have reviewed the Department of Taxation's proposed amendment of the regulation applicable to the Virginia Retail Sales and Use Tax Regulations relating to Dealer Compensation or Discount to conform to a statutory change in the tax rate that was posted on the Virginia Regulatory Town Hall internet site on March 16, 2007. In my view, as counsel to the Department of Taxation, the Department may promulgate regulations pursuant to § 58.1-203 of the *Code of Virginia*. The amendment of this regulation does not appear to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor do they appear to conflict with any federal or state law currently in effect. Finally, the amendment of 23 VAC 10-210-485 is exempt from the Administrative Process Act pursuant to Code of Virginia § 2.2-4006A(4)(a) because the amendment is necessary to conform the regulation to changes in Virginia statutory law and no agency discretion is involved.

This memorandum addresses legal matters only and is not intended to serve, nor should it be construed, as a comment for or against the merits of the proposed regulations.

