



*Toni*

# COMMONWEALTH of VIRGINIA

Department of Taxation

Filing Instructions  
(Check Proper Box)

MEMORANDUM

Richmond, Virginia 23282

58-1118

Subject: Sales & Use  
Cert. of Registratio

Tax Type

Subject: \_\_\_\_\_

Public Document

TO: Russell C. Whitehead, Jr., Supervisor  
Taxpayer Assistance Section

Risk

Subject: \_\_\_\_\_

Controversies

DATE: April 1, 1985

58-1150

Subject: \_\_\_\_\_

**Compromises**

RE: Request for Determination of Policy/Sales and Use Tax  
Registration of Persons Making Nontaxable Sales

This will refer to your memorandum of September 28, 1984 and our recent meeting in which you wished to determine departmental policy on the registration as dealers to collect the sales tax of persons who make no taxable sales.

Section 58.1-613.A of the Code of Virginia provides that "every person desiring to engage in or conduct business as a dealer...shall file... an application for a certificate of registration." In turn, Virginia Code Section 58.1-612 defines the term "dealer" as including "every person who...sells at retail, or who offers for sale at retail, or who has in his possession for sale at retail, or for use, consumption, or distribution, or for storage to be used or consumed in this State, tangible personal property."

Based upon a strict reading of the above statutes, both a retailer who sells only to exempt customers and a wholesaler who makes only sales for resale are required to register as dealers. The statutes makes no distinction between retailers who sell to exempt and non-exempt customers and are broad enough to require registration on the part of a wholesaler as he is holding tangible personal property for distribution in Virginia. However, there is no legal requirement that such statutes be read strictly, particularly when a valid administrative reason exists for not registering a seller. Accordingly, I see no reason why decisions as to the registration of persons who make nontaxable sales cannot be made on a case-by-case basis.

*Danny M. Payne*

Danny M. Payne, Director  
Tax Policy Division

dlk

APPROVED:

*W. H. Forst*

W. H. Forst  
Tax Commissioner