



COMMONWEALTH of VIRGINIA

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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 Virginia Retail Sales and Use Tax Regulations Applicable to Vending Machine Sales to Conform to a Statutory Change in the Sales Tax Rate

I have reviewed the Department of Taxation's proposed amendment of the regulations applicable to the Virginia Retail Sales and Use Tax Regulations Applicable to Vending Machine Sales to conform to a statutory change in the sales tax 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 these regulations 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 10-210-6041, 23 VAC 10-210-6042 and 23 VAC 10-210-6043 is exempt from the Administrative Process Act pursuant to *Code of Virginia* §§ 2.2-4006A(3) and A(4)(a) because the amendment is necessary to conform the regulations to changes in Virginia statutory law and correct a technical error, 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.

