

Department of Taxation

Regulation Title: HOSPITALS AND NURSING HOMES
VAC Number: 23 VAC 10-210-720

- 1. Statement identifying and describing the source of the state and/or federal legal authority to promulgate the contemplated regulation, the scope of the authority provided, and the extent to which the authorized rulemaking is mandatory or discretionary, together with an attached copy of all cited legal provisions;**

Section 58.1-203 of the Code of Virginia authorizes the Commissioner of the Department of Taxation to promulgate regulations related to the interpretation and enforcement of the laws of the Commonwealth governing taxes administered by the department. The proposed amendments are not mandated by federal or state law.

- 2. Statement delineating the potential issues to be addressed in the proposed regulation;**

This regulation interprets the provisions of §§ 58.1-609.7(4), (5), (11), (12) of the Code of Virginia which grant sales and use tax exemptions to nonprofit hospitals and nursing homes. The amendments will seek to clarify the following provisions:

- i. Purchases and sales by hospitals and nursing homes. The revisions will clarify that medicines and medical supplies provided to patients, are not deemed to be sales of tangible personal property if consumed by a nonprofit hospital in accordance with § 58.1-609.7(4) of the Code which provides an exemption to nonprofit hospitals.
- ii. Meals sold in cafeteria will be considered taxable; however, meals provided to patients will be considered tax exempt.
- iii. Bulk purchases of prescription medicines and durable medical equipment for a patient will be distinguished as exempt from those purchases made for a for profit hospital=s operation.
- iv. Clarify the definition of an exempt clinic, so that there is a clear understanding of what types of clinics are entitled to the exemption.
- v. Delete references to adult care residences that were incorporated into a new regulation.

- 3. Statement setting forth the reasoning by which the agency has concluded that the contemplated regulation is essential to protect the health, safety or welfare of citizens, or for the efficient and economical performance of an important governmental function, including a discussion of the problems the regulations are intended to solve;**

The proposed amendments are intended to clarify the statutory provisions which provide for exemptions from sales and use taxes for certain types of purchases by nonprofit and for profit hospital and nursing homes. The proposed amendments seek to clarify and reorganize the regulation so that it is easily understood by the entities affected by the regulation and the department's enforcement staff. The Sales Use and Tax Exemption statute and regulations are construed against the taxpayer, so it is important that the department clearly articulate its policy to avoid unnecessary confusion to the taxpayer.

4. Statement describing the process by which the agency has considered, or will consider, less burdensome and less intrusive alternative for achieving the essential purpose, the alternative considered or to be considered, and the reasoning by which the agency has rejected any of the alternative considered.

Alternatives which might achieve the essential purpose for which the regulatory action has been undertaken were considered. However, due to changes in the industry, new businesses, expansions, reorganizations, etc., and confusion over the proper tax statutes for purchases and sales by affiliated organizations, a regulation is essential to set forth the policy of the department.