

Department of Taxation

Regulation Title: HOTELS, MOTELS, TOURISTS CAMPS, ETC.
VAC Number: 23 VAC 10-210-730

- 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.

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

The department is amending the regulation to add definitions so that those affected by the regulation are aware of the limitations of the exemption. Generally, hotel and motel accommodations are taxable. However, the Code provides an exemption for rooms, lodging and accommodations furnished to transients for more than 90 days. This exemption has generated a tremendous number of ruling requests therefore, it is imperative that the regulation accurately reflect departmental policy.

- 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 department has broad taxing authority and it is necessary for the efficient administration of an essential governmental function and for the fair and consistent application of the statute, that a regulation that correctly reflects department policy is available to the public and to enforcement staff.

The current statute does not clearly define the entities that are entitled to the exemption and it is incumbent on the department to ensure that tax laws are clearly understood, and evenly applied to the general public. Inconsistent application of the law creates confusion for staff and those business entities entitled to benefit from the law.

- 4. Statement describing the process by which the agency has considered, or will consider, less burdensome and less intrusive alternatives for achieving the essential**

purpose, the alternatives considered or to be considered, and the reasoning by which the agency has rejected any of the alternatives considered.

Alternatives which might achieve the essential purpose for which the regulatory action has been undertaken were considered. However, since policy determinations, Tax Bulletins, and guidelines, do not carry weight in court, it has been determined that a regulation is essential for enforcement purposes and to ensure uniform interpretation and application of the law.