



COMMONWEALTH *of* VIRGINIA

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MEMORANDUM

To: Joe Mayer, Lead Policy Analyst
Virginia Department of Taxation

From: Flora T. Hezel
Senior Assistant Attorney General

Date: July 29, 2021

Subject: Letter of Assurance for Periodic Review of 23 VAC 10-390

I have reviewed the Department of Taxation's Periodic Review and Small Business Impact Review Report of Findings for 23 VAC 10-390 relating to the Department's regulations for the Virginia Soft Drink Excise Tax pursuant to Code of Virginia §§ 2.2-4007.1(D) and 2.2-4017, and Executive Order 14, as amended July 16, 2018. In my view, as counsel to the Department of Taxation, the Department has authority to promulgate these regulations pursuant to Code of Virginia § 58.1-203. Further, the retention of 23 VAC 10-390 in its current form does not appear to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor does it appear to conflict with any federal or state law currently in effect.

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 regulation