WEST VIRGINIA CODE: §11-15B-23

§11-15B-23. Enactment of exemptions.

(a) General rule. -- The Legislature may only enact entity-based, use-based and product-based exemptions, from the taxes levied by articles fifteen and fifteen-a of this chapter, in accordance with the provisions of this section and Streamlined Sales and Use Tax Agreement.

(b) Specific rules for product-based exemptions. --

(1) A product-based exemption may be enacted without restriction if Part II of the Library of Definitions in Appendix C of the Streamlined Sales and Use Tax Agreement does not have a definition for the product.

(2) If Part II of the Library of Definitions in Appendix C of the Streamlined Sales and Use Tax Agreement has a definition for the product, a product-based exemption may be enacted for the product only if: (A) The exemption utilizes the product definition in a manner consistent with Part II of the Library of Definitions in Appendix C of the Agreement and Section 327 of the Agreement; and (B) the product-based exemption exempts all items included within a definition in Part II of the Library of Definitions unless the product definition in the Library of Definitions sets out an exclusion for the item or items from the definition.

(c) Specific rules of entity-based and use-based exemptions. --

(1) An entity-based or use-based exemption for a product may be enacted without restriction if Part II of the Library of Definitions in Appendix C of the Streamlined Sales and Use Tax Agreement does not have a definition for the product.

(2) If Part II of the Library of Definitions in Appendix C of the Streamlined Sales and Use Tax Agreement has a definition for the product, the entity-based or use-based exemption for the product must utilize the product definition in a manner consistent with Part II of the Library of Definitions and Section 327 of the Streamlined Sales and Use Tax Agreement.

(3) An entity-based exemption for an item may be enacted if Part II of the Library of Definition in Appendix C of the Streamlined Sales and Use Tax Agreement does not have a definition for the item but does have a definition for a product that includes the item.

(4) A use-based exemption for an item may not be enacted that effectively constitutes a product-based exemption if Part II of the Library of Definitions in Appendix C of the Streamlined Sales and Use Tax Agreement has a definition for a product that includes the item.

(5) A use-based exemption for an item may be enacted if Part II of the Library of Definitions in Appendix C of the Streamlined Sales and Use Tax Agreement has a definition for a

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product that includes the item, if the exemption is not prohibited in subdivision (4) of this subsection, and if the exemption is consistent with the definition in Part II of the Library of Definitions.

(d) Construction. -- For purposes of complying with the requirements in this section, the inclusion of a product within the definition of tangible personal property is disregarded.

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