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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1992

ENROLLED

Committee Substitute for
SENATE BILL NO. 348

(By Senator Spears, et al)

PASSED March 7, 1992

In Effect 90 days from Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 348

(SENATORS SPEARS, WOOTON, WEHRLE, WIEDEBUSCH,
SHARPE, JONES, CLAYPOLE, CHERNENKO, BOLEY, BLATNIK,
BURDETTE, MR. PRESIDENT, AND WHITLOW, *original sponsors*)

[Passed March 7, 1992; in effect ninety days from passage.]

AN ACT to amend and reenact section nine, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section eleven, removing nails and fencing from the definition of improvements to real property; exempting health and fitness organizations providing personalized fitness programs from remitting sales tax; exempting sales of services by baby-sitters from remitting sales tax under certain conditions; exempting certain community-based service organizations from collecting and remitting sales tax on specified programs and activities; prohibiting the tax commissioner from taking action against community-based organizations for taxes uncollected prior to the first day of July, one thousand nine hundred ninety-two; and barring refunds of taxes collected and paid over prior to that date.

Be it enacted by the Legislature of West Virginia:

That section nine, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section eleven, to read as follows:

ARTICLE 15. CONSUMERS SALES TAX.

§11-15-9. Exemptions.

1 The following sales and services are exempt:

2 (a) Sales of gas, steam and water delivered to
3 consumers through mains or pipes, and sales of
4 electricity;

5 (b) Sales of textbooks required to be used in any of
6 the schools of this state or in any institution in this
7 state which qualifies as a nonprofit or educational
8 institution subject to the West Virginia department of
9 education and the arts; board of trustees of the
10 university system of West Virginia, or the board of
11 directors for colleges located in this state;

12 (c) Sales of property or services to the state, its
13 institutions or subdivisions, governmental units,
14 institutions or subdivisions of other states: *Provided*,
15 That the law of such other state provides the same
16 exemption to governmental units or subdivisions of
17 this state and to the United States, including agencies
18 of federal, state or local governments for distribution
19 in public welfare or relief work;

20 (d) Sales of vehicles which are titled by the division
21 of motor vehicles and which are subject to the tax
22 imposed by section four, article three, chapter
23 seventeen-a of this code, or like tax;

24 (e) Sales of property or services to churches and
25 bona fide charitable organizations who make no
26 charge whatsoever for the services they render:
27 *Provided*, That the exemption herein granted shall
28 apply only to services, equipment, supplies, food for
29 meals and materials directly used or consumed by
30 these organizations, and shall not apply to purchases of

31 gasoline or special fuel;

32 (f) Sales of tangible personal property or services to
 33 a corporation or organization which has a current
 34 registration certificate issued under article twelve of
 35 this chapter is exempt from federal income taxes
 36 under Section 501(c)(3) or (c)(4) of the Internal Reve-
 37 nue Code of 1986, as amended, and is:

38 (1) A church or a convention or association of
 39 churches as defined in Section 170 of the Internal
 40 Revenue Code of 1986, as amended;

41 (2) An elementary or secondary school which main-
 42 tains a regular faculty and curriculum and has a
 43 regularly enrolled body of pupils or students in
 44 attendance at the place in this state where its educa-
 45 tional activities are regularly carried on;

46 (3) A corporation or organization which annually
 47 receives more than one half of its support from any
 48 combination of gifts, grants, direct or indirect charita-
 49 ble contributions, or membership fees;

50 (4) An organization which has no paid employees
 51 and its gross income from fund raisers, less reasonable
 52 and necessary expenses incurred to raise such gross
 53 income (or the tangible personal property or services
 54 purchased with such net income), is donated to an
 55 organization which is exempt from income taxes
 56 under Section 501(c)(3) or (c)(4) of the Internal Reve-
 57 nue Code of 1986, as amended;

58 (5) A youth organization, such as the girl scouts of
 59 the United States of America, the boy scouts of
 60 America or the YMCA Indian guide/princess program
 61 and the local affiliates thereof, which is organized and
 62 operated exclusively for charitable purposes and has as
 63 its primary purpose the nonsectarian character devel-
 64 opment and citizenship training of its members;

65 (6) For purposes of this subsection:

66 (A) The term "support" includes, but is not limited
 67 to:

68 (i) Gifts, grants, contributions or membership fees;

69 (ii) Gross receipts from fund raisers which include
70 receipts from admissions, sales of merchandise, perfor-
71 mance of services or furnishing of facilities in any
72 activity which is not an unrelated trade or business
73 within the meaning of Section 513 of the Internal
74 Revenue Code of 1986, as amended;

75 (iii) Net income from unrelated business activities,
76 whether or not such activities are carried on regularly
77 as a trade or business;

78 (iv) Gross investment income as defined in Section
79 509(e) of the Internal Revenue Code of 1986, as
80 amended;

81 (v) Tax revenues levied for the benefit of a corpora-
82 tion or organization either paid to or expended on
83 behalf of such organization; and

84 (vi) The value of services or facilities (exclusive of
85 services or facilities generally furnished to the public
86 without charge) furnished by a governmental unit
87 referred to in Section 170(c)(1) of the Internal Revenue
88 Code of 1986, as amended, to an organization without
89 charge. This term does not include any gain from the
90 sale or other disposition of property which would be
91 considered as gain from the sale or exchange of a
92 capital asset, or the value of an exemption from any
93 federal, state or local tax or any similar benefit;

94 (B) The term "charitable contribution" means a
95 contribution or gift to or for the use of a corporation
96 or organization, described in Section 170(c)(2) of the
97 Internal Revenue Code of 1986, as amended;

98 (C) The term "membership fee" does not include
99 any amounts paid for tangible personal property or
100 specific services rendered to members by the corpora-
101 tion or organization; or

102 (7) The exemption allowed by this subsection ^{division} (f) does
103 not apply to sales of gasoline or special fuel or to sales
104 of tangible personal property or services to be used or
105 consumed in the generation of unrelated business
106 income as defined in Section 513 of the Internal
107 Revenue Code of 1986, as amended. The provisions of

108 this subsection as amended by this act shall apply to
109 sales made after the thirtieth day of June, one thou-
110 sand nine hundred eighty-nine: *Provided*, That the
111 exemption herein granted shall apply only to services,
112 equipment, supplies and materials used or consumed
113 in the activities for which such organizations qualify
114 as tax exempt organizations under the Internal Reve-
115 nue Code by these organizations and shall not apply to
116 purchases of gasoline or special fuel;

117 (g) Sales of property or services to persons engaged
118 in this state in the business of manufacturing, trans-
119 portation, transmission, communication or in the
120 production of natural resources: *Provided*, That the
121 exemption herein granted shall apply only to services,
122 machinery, supplies and materials directly used or
123 consumed in the businesses or organizations named
124 above, and shall not apply to purchases of gasoline or
125 special fuel: *Provided, however*, That on and after the
126 first day of July, one thousand nine hundred eighty-
127 seven, the exemption provided in this subsection shall
128 apply only to services, machinery, supplies and mate-
129 rials directly used or consumed in the activities of
130 manufacturing, transportation, transmission, commu-
131 nication or the production of natural resources in the
132 businesses or organizations named above and shall not
133 apply to purchases of gasoline or special fuel;

134 (h) An isolated transaction in which any taxable
135 service or any tangible personal property is sold,
136 transferred, offered for sale or delivered by the owner
137 thereof or by his representative for the owner's
138 account, such sale, transfer, offer for sale or delivery
139 not being made in the ordinary course of repeated and
140 successive transactions of like character by such owner
141 or on his account by such representative: *Provided*,
142 That nothing contained herein may be construed to
143 prevent an owner who sells, transfers or offers for sale
144 tangible personal property in an isolated transaction
145 through an auctioneer from availing himself or herself
146 of the exemption provided herein, regardless where
147 such isolated sale takes place. The tax commissioner
148 may adopt such legislative rule pursuant to chapter

149 twenty-nine-a of this code as he deems necessary for
150 the efficient administration of this exemption;

151 (i) Sales of tangible personal property or of any
152 taxable services rendered for use or consumption in
153 connection with the commercial production of an
154 agricultural product the ultimate sale of which will be
155 subject to the tax imposed by this article or which
156 would have been subject to tax under this article:
157 *Provided*, That sales of tangible personal property and
158 services to be used or consumed in the construction of
159 or permanent improvement to real property and sales
160 of gasoline and special fuel shall not be exempt:
161 *Provided, however*, That nails and fencing shall not be
162 considered as improvements to real property.

163 (j) Sales of tangible personal property to a person for
164 the purpose of resale in the form of tangible personal
165 property: *Provided*, That sales of gasoline and special
166 fuel by distributors and importers shall be taxable
167 except when the sale is to another distributor for
168 resale: *Provided, however*, That sales of building
169 materials or building supplies or other property to any
170 person engaging in the activity of contracting, as
171 defined in this article, which is to be installed in,
172 affixed to or incorporated by such person or his agent
173 into any real property, building or structure shall not
174 be exempt under this subsection, except that sales of
175 tangible personal property to a person engaging in the
176 activity of contracting pursuant to a written contract
177 with the United States, this state, or with a political
178 subdivision thereof, or with a public corporation
179 created by the Legislature or by another governmental
180 entity pursuant to an act of the Legislature, for a
181 building or structure, or improvement thereto, or
182 other improvement to real property that is or will be
183 owned and used by the governmental entity for a
184 governmental or proprietary purpose, who incorpo-
185 rates such property in such building, structure or
186 improvement shall, with respect to such tangible
187 personal property, nevertheless be deemed to be the
188 vendor of such property to the governmental entity
189 and any person seeking to qualify for and assert this

190 exception must do so pursuant to such legislative rules
191 and regulations as the tax commissioner may promul-
192 gate and upon such forms as the tax commissioner
193 may prescribe. A subcontractor who, pursuant to a
194 written subcontract with a prime contractor who
195 qualifies for this exception, provides equipment, or
196 materials, and labor to such a prime contractor shall
197 be treated in the same manner as the prime contractor
198 is treated with respect to the prime contract under
199 this exception and the legislative rules and regulations
200 promulgated by the tax commissioner: *Provided*
201 *further*, That the exemption for government contrac-
202 tors in the preceding proviso shall expire on the first
203 day of October, one thousand nine hundred ninety,
204 subject to the transition rules set forth in section
205 eight-c of this article;

206 (k) Sales of property or services to nationally
207 chartered fraternal or social organizations for the sole
208 purpose of free distribution in public welfare or relief
209 work: *Provided*, That sales of gasoline and special fuel
210 shall be taxable;

211 (l) Sales and services, fire fighting or station house
212 equipment, including construction and automotive,
213 made to any volunteer fire department organized and
214 incorporated under the laws of the state of West
215 Virginia: *Provided*, That sales of gasoline and special
216 fuel shall be taxable;

217 (m) Sales of newspapers when delivered to consu-
218 mers by route carriers;

219 (n) Sales of drugs dispensed upon prescription and
220 sales of insulin to consumers for medical purposes;

221 (o) Sales of radio and television broadcasting time,
222 preprinted advertising circulars and newspaper and
223 outdoor advertising space for the advertisement of
224 goods or services;

225 (p) Sales and services performed by day-care centers;

226 (q) Casual and occasional sales of property or
227 services not conducted in a repeated manner or in the
228 ordinary course of repetitive and successive transac-

229 tions of like character by a corporation or organization
230 which is exempt from tax under subsection (f) of this
231 section on its purchases of tangible personal property
232 or services;

233 (1) For purposes of this subsection, the term "casual
234 and occasional sales not conducted in repeated manner
235 or in the ordinary course of repetitive and successive
236 transactions of like character" means sales of tangible
237 personal property or services at fund raisers sponsored
238 by a corporation or organization which is exempt,
239 under subsection (f) of this section, from payment of
240 the tax imposed by this article on its purchases, when
241 such fund raisers are of limited duration and are held
242 no more than six times during any twelve-month
243 period and limited duration means no more than
244 eighty-four consecutive hours;

245 (2) The provisions of this subsection, as amended by
246 this article, shall apply to sales made after the thirtieth
247 day of June, one thousand nine hundred eighty-nine;

248 (r) Sales of property or services to a school which
249 has approval from the board of trustees of the univer-
250 sity system of West Virginia or the board of directors
251 of the state college system to award degrees, which has
252 its principal campus in this state, and which is exempt
253 from federal and state income taxes under Section
254 501(c)(3) of the Internal Revenue Code of 1986, as
255 amended: *Provided*, That sales of gasoline and special
256 fuel shall be taxable;

257 (s) Sales of mobile homes to be utilized by purchas-
258 ers as their principal year-round residence and dwell-
259 ing: *Provided*, That these mobile homes shall be
260 subject to tax at the three percent rate;

261 (t) Sales of lottery tickets and materials by licensed
262 lottery sales agents and lottery retailers authorized by
263 the state lottery commission, under the provisions of
264 article twenty-two, chapter twenty-nine of this code;

265 (u) Leases of motor vehicles titled pursuant to the
266 provisions of article three, chapter seventeen-a of this
267 code to lessees for a period of thirty or more consec-

268 utive days. This exemption shall apply to leases
269 executed on or after the first day of July, one thou-
270 sand nine hundred eighty-seven, and to payments
271 under long-term leases executed before such date, for
272 months thereof beginning on or after such date;

273 (v) Notwithstanding the provisions of subsection (g)
274 of this section or any provisions of this article to the
275 contrary, sales of property and services to persons
276 subject to tax under article thirteen, thirteen-a or
277 thirteen-b of this chapter: *Provided*, That the exemp-
278 tion herein granted shall apply both to property or
279 services directly or not directly used or consumed in
280 the conduct of privileges which are subject to tax
281 under such articles but shall not apply to purchases of
282 gasoline or special fuel;

283 (w) Sales of propane to consumers for poultry house
284 heating purposes, with any seller to such consumer
285 who may have prior paid such tax in his price, to not
286 pass on the same to the consumer, but to make
287 application and receive refund of such tax from the
288 tax commissioner, pursuant to rules and regulations
289 which shall be promulgated by the tax commissioner;
290 and notwithstanding the provisions of section eighteen
291 of this article or any other provisions of such article to
292 the contrary;

293 (x) Any sales of tangible personal property or
294 services purchased after the thirtieth day of Septem-
295 ber, one thousand nine hundred eighty-seven, and
296 lawfully paid for with food stamps pursuant to the
297 federal food stamp program codified in 7 United States
298 Code, §2011, et seq., as amended, or with drafts issued
299 through the West Virginia special supplemental food
300 program for women, infants and children codified in
301 42 United States Code, §1786;

302 (y) Sales of tickets for activities sponsored by
303 elementary and secondary schools located within this
304 state;

305 (z) Sales of electronic data processing services and
306 related software: *Provided*, That for the purposes of
307 this subsection "electronic data processing services"

308 means: (1) The processing of another's data, including
309 all processes incident to processing of data such as
310 keypunching, keystroke verification, rearranging or
311 sorting of previously documented data for the purpose
312 of data entry or automatic processing, and changing
313 the medium on which data is sorted, whether these
314 processes are done by the same person or several
315 persons; and (2) providing access to computer equip-
316 ment for the purpose of processing data or examining
317 or acquiring data stored in or accessible to such
318 computer equipment;

319 (aa) Tuition charged for attending educational
320 summer camps;

321 (bb) Sales of building materials or building supplies
322 or other property to an organization qualified under
323 Section 501(c)(3) or (c)(4) of the Internal Revenue Code
324 of 1986, as amended, which are to be installed in,
325 affixed to or incorporated by such organization or its
326 agent into real property, or into a building or structure
327 which is or will be used as permanent low-income
328 housing, transitional housing, emergency homeless
329 shelter, domestic violence shelter or emergency chil-
330 dren and youth shelter if such shelter is owned,
331 managed, developed or operated by an organization
332 qualified under Section 501(c)(3) or (c)(4) of the
333 Internal Revenue Code of 1986, as amended;

334 (cc) Dispensing of services performed by one corpo-
335 ration for another corporation when both corporations
336 are members of the same controlled group. Control
337 means ownership, directly or indirectly, of stock
338 possessing fifty percent or more of the total combined
339 voting power of all classes of the stock of a corporation
340 entitled to vote or ownership, directly or indirectly, of
341 stock possessing fifty percent or more of the value of
342 the corporation;

343 (dd) Food for the following shall be exempt:

344 (1) Food purchased or sold by public or private
345 schools, school sponsored student organizations, or
346 school sponsored parent-teacher associations to stu-
347 dents enrolled in such school or to employees of such

348 school during normal school hours; but not those sales
349 of food made to the general public;

350 (2) Food purchased or sold by a public or private
351 college or university or by a student organization
352 officially recognized by such college or university to
353 students enrolled at such college or university when
354 such sales are made on a contract basis so that a fixed
355 price is paid for consumption of food products for a
356 specific period of time without respect to the amount
357 of food product actually consumed by the particular
358 individual contracting for the sale and no money is
359 paid at the time the food product is served or
360 consumed;

361 (3) Food purchased or sold by a charitable or private
362 nonprofit organization, a nonprofit organization or a
363 governmental agency under a program to provide food
364 to low-income persons at or below cost;

365 (4) Food sold in an occasional sale by a charitable or
366 nonprofit organization including volunteer fire depart-
367 ments and rescue squads, if the purpose of the sale is
368 to obtain revenue for the functions and activities of
369 the organization and the revenue so obtained is
370 actually expended for that purpose;

371 (5) Food sold by any religious organization at a social
372 or other gathering conducted by it or under its
373 auspices, if the purpose in selling the food is to obtain
374 revenue for the functions and activities of the organi-
375 zation and the revenue obtained from selling the food
376 is actually used in carrying on such functions and
377 activities: *Provided*, That purchases made by such
378 organizations shall not be exempt as a purchase for
379 resale;

380 (ee) Sales of food by little leagues, midget football
381 leagues, youth football or soccer leagues and similar
382 types of organizations, including scouting groups and
383 church youth groups, if the purpose in selling the food
384 is to obtain revenue for the functions and activities of
385 the organization and the revenues obtained from
386 selling the food is actually used in supporting or
387 carrying on functions and activities of the groups:

388 *Provided*, That such purchases made by such organi-
389 zations shall not be exempt as a purchase for resale;

390 (ff) Charges for room and meals by fraternities and
391 sororities to their members: *Provided*, That such
392 purchases made by a fraternity or sorority shall not be
393 exempt as a purchase for resale;

394 (gg) Sales of or charges for the transportation of
395 passengers in interstate commerce;

396 (hh) Sales of tangible personal property or services
397 to any person which this state is prohibited from
398 taxing under the laws of the United States or under
399 the constitution of this state;

400 (ii) Sales of tangible personal property or services to
401 any person who claims exemption from the tax
402 imposed by this article or article fifteen-a of this
403 chapter pursuant to the provisions of any other
404 chapter of this code;

405 (jj) Charges for the services of opening and closing
406 a burial lot;

407 (kk) Sales of livestock, poultry or other farm pro-
408 ducts in their original state by the producer thereof or
409 a member of the producer's immediate family who is
410 not otherwise engaged in making retail sales of
411 tangible personal property; and sales of livestock sold
412 at public sales sponsored by breeder's or registry
413 associations or livestock auction markets: *Provided*,
414 That the exemptions allowed by this subsection shall
415 apply to sales made on or after the first day of July,
416 one thousand nine hundred ninety, and may be
417 claimed without presenting or obtaining exemption
418 certificates: *Provided, however*, That the farmer shall
419 maintain adequate records;

420 (ll) Sales of motion picture films to motion picture
421 exhibitors for exhibition if the sale of tickets or the
422 charge for admission to the exhibition of the film is
423 subject to the tax imposed by this article and sales of
424 coin-operated video arcade machines or video arcade
425 games to a person engaged in the business of providing
426 such machines to the public for a charge upon which

427 the tax imposed by this article is remitted to the tax
428 commissioner: *Provided*, That the exemption provided
429 in this subsection shall apply to sales made on or after
430 the first day of July, one thousand nine hundred
431 ninety, and may be claimed by presenting to the seller
432 a properly executed exemption certificate;

433 (mm) Sales of aircraft repair, remodeling and
434 maintenance services when such services are to an
435 aircraft operated by a certified or licensed carrier of
436 persons or property, or by a governmental entity, or to
437 an engine or other component part of an aircraft
438 operated by a certificated or licensed carrier of
439 persons or property, or by a governmental entity and
440 sales of tangible personal property that is permanently
441 affixed or permanently attached as a component part
442 of an aircraft owned or operated by a certificated or
443 licensed carrier of persons or property, or by a
444 governmental entity, as part of the repair, remodeling
445 or maintenance service and sales of machinery, tools,
446 or equipment, directly used or consumed exclusively
447 in the repair, remodeling, or maintenance of aircraft,
448 aircraft engines, or aircraft component parts, for a
449 certificated or licensed carrier of persons or property,
450 or for a governmental entity;

451 (nn) Sales of tangible personal property and services
452 to a person entitled to claim the tax credit for invest-
453 ment in certain management information services
454 facilities allowed under section three-c, article
455 thirteen-d of this chapter, pursuant to the issuance of
456 a management information services tax credit certifi-
457 cation by the tax commissioner in accordance with
458 subsection (e), section three-c, article thirteen-d of this
459 chapter, when such property or services are directly
460 used or consumed by the purchaser in the operation of
461 the management information services facility, as
462 defined in section two of this article for which credit
463 is allowed under section three-c, article thirteen-d of
464 this chapter. Tangible personal property, or services,
465 directly used or consumed in the operation of a
466 management information services facility includes
467 only: (1) Computer processing and telecommunications

468 equipment; (2) data storage and input/output devices;
 469 (3) disaster recovery services; (4) supplies; (5) applica-
 470 tion, telecommunication and operating system soft-
 471 ware; (6) repair and maintenance of any of the
 472 aforesaid items; and (7) other tangible personal prop-
 473 erty or services directly used or consumed in the
 474 operation of a management information services
 475 facility: *Provided*, That the property is purchased or
 476 leased after the thirty-first day of March, one thou-
 477 sand nine hundred ninety-one. This exemption shall
 478 not apply to tangible personal property, or services,
 479 that are not directly used or consumed in the opera-
 480 tion of a management information services facility, or
 481 to gasoline or special fuel: *Provided, however*, That
 482 nothing in this paragraph shall be construed to limit,
 483 exclude or preclude the application or availability of
 484 any other exemption set forth in this section, or
 485 elsewhere in this code, which might otherwise apply
 486 to any sale of tangible personal property or services;

487 (oo) Charges for memberships or services provided
 488 by health and fitness organizations relating to person-
 489 alized fitness programs;

490 (pp) Sales of services by individuals who baby-sit for
 491 a profit: *Provided*, That the gross receipts of the
 492 individual from the performance of baby sitting
 493 services does not exceed \$5,000.00 in a taxable year;
 494 and

495 (qq) A corporation or organization which is a not-
 496 for-profit entity which charges membership dues
 497 utilized for and contributing significantly to traffic and
 498 pedestrian safety and education programs whether or
 499 not the corporation or organization is exempt from
 500 income tax under Section 501(c)(3) of the Internal
 501 Revenue Code of 1985, as amended.

§11-15-11. Exemption for certain organizations.

1 (a) Sales of taxable services by a corporation or
 2 organization that are exempt from federal income tax
 3 under Section 501(c)(3) of the Internal Revenue Code,
 4 and that meet the requirements set forth in subdivi-
 5 sion (b) of this section, are exempt from the tax

6 imposed by this article, except that this exemption
7 shall not apply to sales of taxable services to the extent
8 that income received from the sales of such services is
9 taxable under Section 511 of the Internal Revenue
10 Code.

11 (b) The exemption set forth in this section applies
12 only to those corporations or organizations meeting the
13 following criteria:

14 (1) The corporation or organization is organized and
15 operated primarily for charitable or educational
16 purposes and its activities and programs contribute
17 importantly to promoting the general welfare of
18 youth, families and the aged, improving health and
19 fitness and providing recreational opportunities to the
20 public;

21 (2) The corporation or organization offers member-
22 ship or participation in its programs and activities to
23 the general public and charges fees or dues which
24 make its programs and activities accessible by a
25 reasonable cross-section of the community; and

26 (3) The corporation or organization offers financial
27 assistance on a regular and on-going basis to individ-
28 uals unable to afford the organization's membership
29 dues or fees.

30 (c) The tax commissioner is prohibited from issuing
31 any assessments and from taking any other action
32 under article ten of this chapter after the thirty-first
33 day of December, one thousand nine hundred ninety-
34 one, to collect the tax imposed by this article from an
35 organization described in subdivisions (a) and (b) of
36 this section that did not collect the tax on transactions
37 occurring before the first day of July, one thousand
38 nine hundred ninety-two. The tax commissioner is
39 also prohibited from refunding any tax collected by a
40 qualified organization prior to the first day of July,
41 one thousand nine hundred ninety-two, that was paid
42 over to the tax commissioner.

43 (d) For purposes of this section, the term "corpora-
44 tion" and the term "organization" are used

45 interchangeably and mean a corporation or other
46 organization that is exempt from income tax under
47 Section 501(c)(3) of the Internal Revenue Code, as
48 amended.

49 (e) Nothing in this section shall affect the application
50 of this article to nonprofit tax-exempt hospitals.

The Joint Committee on Enrolled Bills hereby certifies
that the foregoing bill is correctly enrolled.

Donner Leck
.....
Chairman Senate Committee

.....*Ernest C. Moore*.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Russell E. Allen
.....
Clerk of the Senate

Donald G. Koep
.....
Clerk of the House of Delegates

.....*Scott Boudette*.....
President of the Senate

.....*Robert C. Allen*.....
Speaker House of Delegates

The within *is approved* this the *30th*
day of *May*, 1992.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/25/92

Time 4:50 pm