

SD 37 *VEIO*

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996

RECEIVED
96 MAR 11 PM 3:48
OFFICE OF THE CLERK
WEST VIRGINIA LEGISLATURE

ENROLLED

SENATE BILL NO. 37

(By Senators CRAIG AND SCOTT)

PASSED MARCH 9, 1996
In Effect NINETY DAYS FROM Passage

RECEIVED

96 MAR 14 PM 3:43

OFFICE OF THE CLERK
SENATE OF WEST VIRGINIA
CHARLESTON, WEST VIRGINIA

ENROLLED

Senate Bill No. 37

(BY SENATORS CRAIGO AND SCOTT)

[Passed March 9, 1996; in effect ninety days from passage.]

AN ACT to repeal sections nine-c and nine-d, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section nine of said article, all relating to sales tax; exemptions from sales tax; specifying effective dates; creating exemptions from the sales tax for dispensing of services performed by a partnership or limited liability company for another corporation, partnership or limited liability company; exempting sales by public and academic libraries; exempting sales of primary opinion research services performed for out-of-state clients; creating an exemption for value added products and specifying definitions of value added products; creating an exemption for sales of musical instructional services by music teachers; creat-

ing an exemption for charges to members for membership, newsletters, seminars and instructional materials related thereto for members of certain organizations which are tax exempt under specified sections of the Internal Revenue Code; repealing the sections related to exemption certificates and direct pay permits; and exempting commissions received by manufacturers' representatives and numbering the exemptions from sales tax.

Be it enacted by the Legislature of West Virginia:

That sections nine-c and nine-d, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that section nine of said article be amended and reenacted to read as follows:

ARTICLE 15. CONSUMERS SALES TAX.

§11-15-9. Exemptions.

1 (a) *Exemptions for which exemption certificate may be*
2 *issued.* — A person having a right or claim to any exemp-
3 tion set forth in this subsection may, in lieu of paying the
4 tax imposed by this article and filing a claim for refund,
5 execute a certificate of exemption, in such form as the
6 tax commissioner may require, and deliver it to the
7 vendor of the property or service, in such manner as the
8 tax commissioner may require. However, the tax com-
9 missioner may, by regulation, specify those exemptions
10 authorized in this subsection for which exemptions
11 certificates are not required. The following sales of
12 tangible personal property and/or services are exempt as
13 provided in this subsection:

14 (1) Sales of gas, steam and water delivered to consum-
15 ers through mains or pipes and sales of electricity;

16 (2) Sales of textbooks required to be used in any of the
17 schools of this state or in any institution in this state
18 which qualifies as a nonprofit or educational institution
19 subject to the West Virginia department of education

20 and the arts, board of trustees of the university system of
21 West Virginia or the board of directors for colleges
22 located in this state;

23 (3) Sales of property or services to this state, its
24 institutions or subdivisions, governmental units, institu-
25 tions or subdivisions of other states: *Provided*, That the
26 law of such other state provides the same exemption to
27 governmental units or subdivisions of this state and to
28 the United States, including agencies of federal, state or
29 local governments for distribution in public welfare or
30 relief work;

31 (4) Sales of vehicles which are titled by the division of
32 motor vehicles and which are subject to the tax imposed
33 by section four, article three, chapter seventeen-a of this
34 code, or like tax;

35 (5) Sales of tangible personal property or services to
36 churches who make no charge whatsoever for the
37 services they render: *Provided*, That the exemption
38 herein granted shall apply only to services, equipment,
39 supplies, food, meals and materials directly used or
40 consumed by these organizations, and shall not apply to
41 purchases of gasoline or special fuel;

42 (6) Sales of tangible personal property or services to a
43 corporation or organization which has a current regis-
44 tration certificate issued under article twelve of this
45 chapter is exempt from federal income taxes under
46 Section 501(c)(3) or (c)(4) of the Internal Revenue Code
47 of 1986, as amended, and is:

48 (A) A church or a convention or association of churches
49 as defined in Section 170 of the Internal Revenue Code
50 of 1986, as amended;

51 (B) An elementary or secondary school which main-
52 tains a regular faculty and curriculum and has a regu-
53 larly enrolled body of pupils or students in attendance at
54 the place in this state where its educational activities are
55 regularly carried on;

56 (C) A corporation or organization which annually
57 receives more than one half of its support from any
58 combination of gifts, grants, direct or indirect charitable
59 contributions or membership fees;

60 (D) An organization which has no paid employees and
61 its gross income from fund raisers, less reasonable and
62 necessary expenses incurred to raise such gross income
63 (or the tangible personal property or services purchased
64 with such net income), is donated to an organization
65 which is exempt from income taxes under Section
66 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986,
67 as amended;

68 (E) A youth organization, such as the girl scouts of the
69 United States of America, the boy scouts of America or
70 the YMCA Indian guide/princess program and the local
71 affiliates thereof, which is organized and operated
72 exclusively for charitable purposes and has as its pri-
73 mary purpose the nonsectarian character development
74 and citizenship training of its members;

75 (F) For purposes of this subsection:

76 (i) The term "support" includes, but is not limited to:

77 (I) Gifts, grants, contributions or membership fees;

78 (II) Gross receipts from fund raisers which include
79 receipts from admissions, sales of merchandise, perfor-
80 mance of services or furnishing of facilities in any
81 activity which is not an unrelated trade or business
82 within the meaning of Section 513 of the Internal
83 Revenue Code of 1986, as amended;

84 (III) Net income from unrelated business activities,
85 whether or not such activities are carried on regularly as
86 a trade or business;

87 (IV) Gross investment income as defined in Section
88 509(e) of the Internal Revenue Code of 1986, as amended;

89 (V) Tax revenues levied for the benefit of a corporation
90 or organization either paid to or expended on behalf of

91 such organization; and

92 (VI) The value of services or facilities (exclusive of
93 services or facilities generally furnished to the public
94 without charge) furnished by a governmental unit
95 referred to in Section 170(c)(1) of the Internal Revenue
96 Code of 1986, as amended, to an organization without
97 charge. This term does not include any gain from the sale
98 or other disposition of property which would be consid-
99 ered as gain from the sale or exchange of a capital asset,
100 or the value of an exemption from any federal, state or
101 local tax or any similar benefit;

102 (ii) The term "charitable contribution" means a contri-
103 bution or gift to or for the use of a corporation or organi-
104 zation, described in Section 170(c)(2) of the Internal
105 Revenue Code of 1986, as amended;

106 (iii) The term "membership fee" does not include any
107 amounts paid for tangible personal property or specific
108 services rendered to members by the corporation or
109 organization; or

110 (G) The exemption allowed by subdivision (6) of this
111 subsection does not apply to sales of gasoline or special
112 fuel or to sales of tangible personal property or services
113 to be used or consumed in the generation of unrelated
114 business income as defined in Section 513 of the Internal
115 Revenue Code of 1986, as amended. The provisions of
116 this subsection as amended by this article shall apply to
117 sales made after the thirtieth day of June, one thousand
118 nine hundred eighty-nine: *Provided*, That the exemption
119 herein granted shall apply only to services, equipment,
120 supplies and materials used or consumed in the activities
121 for which such organizations qualify as tax exempt
122 organizations under the Internal Revenue Code by these
123 organizations and shall not apply to purchases of gaso-
124 line or special fuel;

125 (7) An isolated transaction in which any taxable
126 service or any tangible personal property is sold, trans-
127 ferred, offered for sale or delivered by the owner thereof

128 or by his representative for the owner's account, such
129 sale, transfer, offer for sale or delivery not being made in
130 the ordinary course of repeated and successive transac-
131 tions of like character by such owner or on his account
132 by such representative: *Provided*, That nothing con-
133 tained herein may be construed to prevent an owner who
134 sells, transfers or offers for sale tangible personal
135 property in an isolated transaction through an auction-
136 eer from availing himself or herself of the exemption
137 provided herein, regardless where such isolated sale
138 takes place. The tax commissioner may adopt such
139 legislative rule pursuant to chapter twenty-nine-a of this
140 code as he deems necessary for the efficient administra-
141 tion of this exemption;

142 (8) Sales of tangible personal property or of any
143 taxable services rendered for use or consumption in
144 connection with the commercial production of an
145 agricultural product the ultimate sale of which will be
146 subject to the tax imposed by this article or which would
147 have been subject to tax under this article: *Provided*,
148 That sales of tangible personal property and services to
149 be used or consumed in the construction of or permanent
150 improvement to real property and sales of gasoline and
151 special fuel shall not be exempt: *Provided, however*,
152 That nails and fencing shall not be considered as im-
153 provements to real property;

154 (9) Sales of tangible personal property to a person for
155 the purpose of resale in the form of tangible personal
156 property: *Provided*, That sales of gasoline and special
157 fuel by distributors and importers shall be taxable
158 except when the sale is to another distributor for resale:
159 *Provided, however*, That sales of building materials or
160 building supplies or other property to any person engag-
161 ing in the activity of contracting, as defined in this
162 article, which is to be installed in, affixed to or incorpo-
163 rated by such person or his agent into any real property,
164 building or structure shall not be exempt under this
165 subsection, except that sales of tangible personal prop-

166 erty to a person engaging in the activity of contracting
167 pursuant to a written contract with the United States,
168 this state, or with a political subdivision thereof, or with
169 a public corporation created by the Legislature or by
170 another governmental entity pursuant to an act of the
171 Legislature, for a building or structure, or improvement
172 thereto, or other improvement to real property that is or
173 will be owned and used by the governmental entity for a
174 governmental or proprietary purpose, who incorporates
175 such property in such building, structure or improve-
176 ment shall, with respect to such tangible personal
177 property, nevertheless be deemed to be the vendor of
178 such property to the governmental entity and any person
179 seeking to qualify for and assert this exception must do
180 so pursuant to such legislative rules and regulations as
181 the tax commissioner may promulgate and upon such
182 forms as the tax commissioner may prescribe. A subcon-
183 tractor who, pursuant to a written subcontract with a
184 prime contractor who qualifies for this exception,
185 provides equipment, or materials, and labor to such a
186 prime contractor shall be treated in the same manner as
187 the prime contractor is treated with respect to the prime
188 contract under this exception and the legislative rules
189 and regulations promulgated by the tax commissioner:
190 *Provided further*, That the exemption for government
191 contractors in the preceding proviso shall expire on the
192 first day of October, one thousand nine hundred ninety,
193 subject to the transition rules set forth in section eight-c
194 of this article;

195 (10) Sales of newspapers when delivered to consumers
196 by route carriers;

197 (11) Sales of drugs dispensed upon prescription and
198 sales of insulin to consumers for medical purposes;

199 (12) Sales of radio and television broadcasting time,
200 preprinted advertising circulars and newspaper and
201 outdoor advertising space for the advertisement of goods
202 or services;

203 (13) Sales and services performed by day-care centers;

204 (14) Casual and occasional sales of property or services
205 not conducted in a repeated manner or in the ordinary
206 course of repetitive and successive transactions of like
207 character by a corporation or organization which is
208 exempt from tax under subdivision (6) of this subsection
209 on its purchases of tangible personal property or ser-
210 vices:

211 (A) For purposes of this subsection, the term "casual
212 and occasional sales not conducted in a repeated manner
213 or in the ordinary course of repetitive and successive
214 transactions of like character" means sales of tangible
215 personal property or services at fund raisers sponsored
216 by a corporation or organization which is exempt, under
217 subdivision (6) of this subsection, from payment of the
218 tax imposed by this article on its purchases, when such
219 fund raisers are of limited duration and are held no more
220 than six times during any twelve-month period and
221 limited duration means no more than eighty-four consec-
222 utive hours;

223 (B) The provisions of this subsection, as amended by
224 this article, shall apply to sales made after the thirtieth
225 day of June, one thousand nine hundred eighty-nine;

226 (15) Sales of property or services to a school which has
227 approval from the board of trustees of the university
228 system of West Virginia or the board of directors of the
229 state college system to award degrees, which has its
230 principal campus in this state, and which is exempt from
231 federal and state income taxes under Section 501(c)(3) of
232 the Internal Revenue Code of 1986, as amended: *Pro-*
233 *vided*, That sales of gasoline and special fuel shall be
234 taxable;

235 (16) Sales of mobile homes to be utilized by the pur-
236 chaser as their principal year-round residence and
237 dwelling: *Provided*, That these mobile homes shall be
238 subject to tax at the three-percent rate;

239 (17) Sales of lottery tickets and materials by licensed
240 lottery agents and lottery retailers authorized by the

241 state lottery commission, under provisions of article
242 twenty-two, chapter twenty-nine of this code;

243 (18) Leases of motor vehicles titled pursuant to the
244 provisions of article three, chapter seventeen-a of this
245 code to lessees for a period of thirty or more consecutive
246 days. This exemption shall apply to leases executed on or
247 after the first day of July, one thousand nine hundred
248 eighty-seven, and to payments under long-term leases
249 executed before such date, for months thereof beginning
250 on or after such date;

251 (19) Sales of propane to consumers for poultry house
252 heating purposes, with any seller to such consumer who
253 may have prior paid such tax in his price, to not pass on
254 to the consumer, but to make application and receive a
255 refund of such tax from the tax commissioner; notwith-
256 standing the provisions of section eighteen of this article
257 or any other provision of this article to the contrary;

258 (20) Any sales of tangible personal property or services
259 purchased after the thirtieth day of September, one
260 thousand nine hundred eighty-seven, and lawfully paid
261 for with food stamps pursuant to the federal food stamp
262 program codified in 7 U. S. C. §2011 et seq., as amended,
263 or with drafts issued through the West Virginia special
264 supplement food program for women, infants and
265 children codified in 42 U. S. C. §1786;

266 (21) Sales of tickets for activities sponsored by elemen-
267 tary and secondary schools located within this state;

268 (22) Sales of electronic data processing services and
269 related software: *Provided*, That for the purposes of this
270 subsection "electronic data processing services" means:
271 (A) The processing of another's data, including all
272 processes incident to processing of data such as key-
273 punching, keystroke verification, rearranging or sorting
274 of previously documented data for the purpose of data
275 entry or automatic processing and changing the medium
276 on which data is sorted, whether these processes are
277 done by the same person or several persons; and (B)

278 providing access to computer equipment for the purpose
279 of processing data or examining or acquiring data stored
280 in or accessible to such computer equipment;

281 (23) Tuition charged for attending educational summer
282 camps;

283 (24) Dispensing of services performed by one corpora-
284 tion, partnership or limited liability company for another
285 corporation, partnership or limited liability company
286 when the entities are members of the same controlled
287 group or are related taxpayers as defined in Section 267
288 of the Internal Revenue Code. Control means ownership,
289 directly or indirectly, of stock, equity interests or
290 membership interests possessing fifty percent or more of
291 the total combined voting power of all classes of the
292 stock of a corporation, equity interests of a partnership
293 or membership interests of a limited liability company
294 entitled to vote or ownership, directly or indirectly, of
295 stock, equity interests or membership interests possess-
296 ing fifty percent or more of the value of the corporation,
297 partnership or limited liability company;

298 (25) Food for the following shall be exempt:

299 (A) Food purchased or sold by public or private
300 schools, school sponsored student organizations or
301 school sponsored parent-teacher associations to students
302 enrolled in such school or to employees of such school
303 during normal school hours; but not those sales of food
304 made to the general public;

305 (B) Food purchased or sold by a public or private
306 college or university or by a student organization offi-
307 cially recognized by such college or university to stu-
308 dents enrolled at such college or university when such
309 sales are made on a contract basis so that a fixed price is
310 paid for consumption of food products for a specific
311 period of time without respect to the amount of food
312 product actually consumed by the particular individual
313 contracting for the sale and no money is paid at the time
314 the food product is served or consumed;

315 (C) Food purchased or sold by a charitable or private
316 nonprofit organization, a nonprofit organization or a
317 governmental agency under a program to provide food to
318 low-income persons at or below cost;

319 (D) Food sold in an occasional sale by a charitable or
320 nonprofit organization including volunteer fire depart-
321 ments and rescue squads, if the purpose of the sale is to
322 obtain revenue for the functions and activities of the
323 organization and the revenue so obtained is actually
324 expended for that purpose;

325 (E) Food sold by any religious organization at a social
326 or other gathering conducted by it or under its auspices,
327 if the purpose in selling the food is to obtain revenue for
328 the functions and activities of the organization and the
329 revenue obtained from selling the food is actually used
330 in carrying on such functions and activities: *Provided*,
331 That purchases made by such organizations shall not be
332 exempt as a purchase for resale;

333 (26) Sales of food by little leagues, midget football
334 leagues, youth football or soccer leagues and similar
335 types of organizations, including scouting groups and
336 church youth groups, if the purpose in selling the food is
337 to obtain revenue for the functions and activities of the
338 organization and the revenues obtained from selling the
339 food is actually used in supporting or carrying on
340 functions and activities of the groups: *Provided*, That
341 such purchases made by such organizations shall not be
342 exempt as a purchase for resale;

343 (27) Charges for room and meals by fraternities and
344 sororities to their members: *Provided*, That such pur-
345 chases made by the fraternity or sorority shall not be
346 exempt as a purchase for resale;

347 (28) Sales of or charges for transportation of passen-
348 gers in interstate commerce;

349 (29) Sales of tangible personal property or services to
350 any person which this state is prohibited from taxing
351 under the laws of the United States or under the consti-

352 tution of this state;

353 (30) Sales of tangible personal property or services to
354 any person who claims exemption from the tax imposed
355 by this article or article fifteen-a of this chapter pursu-
356 ant to the provision of any other chapter of this code;

357 (31) Charges for the services of opening and closing a
358 burial lot;

359 (32) Sales of livestock, poultry or other farm products
360 in their original state by the producer thereof or a
361 member of the producer's immediate family who is not
362 otherwise engaged in making retail sales of tangible
363 personal property; and sales of livestock sold at public
364 sales sponsored by breeders or registry associations or
365 livestock auction markets: *Provided*, That the exemp-
366 tions allowed by this subsection shall apply to sales
367 made on or after the first day of July, one thousand nine
368 hundred ninety, and may be claimed without presenting
369 or obtaining exemption certificates: *Provided, however*,
370 That the farmer shall maintain adequate records;

371 (33) Sales of motion picture films to motion picture
372 exhibitors for exhibition if the sale of tickets or the
373 charge for admission to the exhibition of the film is
374 subject to the tax imposed by this article and sales of
375 coin-operated video arcade machines or video arcade
376 games to a person engaged in the business of providing
377 such machines to the public for a charge upon which the
378 tax imposed by this article is remitted to the tax com-
379 missioner: *Provided*, That the exemption provided in this
380 subsection shall apply to sales made on or after the first
381 day of July, one thousand nine hundred ninety, and may
382 be claimed by presenting to the seller a properly exe-
383 cuted exemption certificate;

384 (34) Sales of aircraft repair, remodeling and mainte-
385 nance services when such services are to an aircraft
386 operated by a certified or licensed carrier of persons or
387 property, or by a governmental entity, or to an engine or
388 other component part of an aircraft operated by a

389 certificated or licensed carrier of persons or property, or
390 by a governmental entity and sales of tangible personal
391 property that is permanently affixed or permanently
392 attached as a component part of an aircraft owned or
393 operated by a certificated or licensed carrier of persons
394 or property, or by a governmental entity, as part of the
395 repair, remodeling or maintenance service and sales of
396 machinery, tools or equipment, directly used or con-
397 sumed exclusively in the repair, remodeling or mainte-
398 nance of aircraft, aircraft engines or aircraft component
399 parts, for a certificated or licensed carrier of persons or
400 property, or for a governmental entity;

401 (35) Charges for memberships or services provided by
402 health and fitness organizations relating to personalized
403 physical fitness programs; and

404 (36) Sales of services by individuals who baby-sit for a
405 profit: *Provided*, That the gross receipts of the individual
406 from the performance of baby-sitting services do not
407 exceed five thousand dollars in a taxable year;

408 (37) Sales of services after the thirtieth day of June,
409 one thousand nine hundred ninety-seven, by public
410 libraries or by libraries at academic institutions or by
411 libraries at institutions of higher learning;

412 (38) Commissions received after the thirtieth day of
413 June, one thousand nine hundred ninety-seven, by a
414 manufacturer's representative;

415 (39) Sales of primary opinion research services after
416 the thirtieth day of June, one thousand nine hundred
417 ninety-seven, when:

418 (A) The services are provided to an out-of-state client;

419 (B) The results of the service activities, including, but
420 not limited to, reports, lists of focus group recruits and
421 compilation of data are transferred to the client across
422 state lines by mail, wire or other means of interstate
423 commerce, for use by the client outside the state of West
424 Virginia; and

425 (C) The transfer of the results of the service activities
426 is an indispensable part of the overall service.

427 For the purpose of this subdivision the term "primary
428 opinion research" means original research in the form of
429 telephone surveys, mall intercept surveys, focus group
430 research, direct mail surveys, personal interviews and
431 other data collection methods commonly utilized for
432 quantitative and qualitative opinion research studies;

433 (40) Sales of property or services after the thirtieth day
434 of June, one thousand nine hundred ninety-seven, to
435 persons within the state when those sales are for the
436 purposes of the production of value-added products:
437 *Provided*, That the exemption herein granted shall apply
438 only to services, equipment, supplies and materials
439 directly used or consumed by such persons engaged
440 solely in the production of value-added products:
441 *Provided, however*, That this exemption may not be
442 claimed by any one purchaser for more than five consec-
443 utive years, except as otherwise permitted in this section.

444 For the purpose of this subdivision, the term "value-
445 added product" means the following products derived
446 from processing a raw agricultural product, whether for
447 human consumption or for other use: For purposes of
448 this article, the following enterprises qualify as process-
449 ing raw agricultural products into value-added products:
450 those engaged in the conversion of:

451 (A) Lumber into furniture, toys, collectibles, and home
452 furnishings;

453 (B) Fruits into wine;

454 (C) Honey into wine;

455 (D) Wool into fabric;

456 (E) Raw hides into semi-finished or finished leather
457 products;

458 (F) Milk into cheese;

459 (G) Fruits or vegetables into a dried, canned or frozen

460 product;

461 (H) Feeder cattle into commonly accepted slaughter
462 weights;

463 (I) Aquatic animals into a dried, canned, cooked or
464 frozen product; and

465 (J) Poultry into a dried, canned, cooked or frozen
466 product;

467 (41) Sales of music instructional services after the
468 thirtieth day of June, one thousand nine hundred ninety-
469 seven, by a music teacher;

470 (42) After the thirtieth day of June, one thousand nine
471 hundred ninety-seven, charges to a member by a mem-
472 bership association or organization which is exempt
473 from paying federal income taxes under Section 501(c)(3)
474 or (c)(6) of the Internal Revenue Code of 1986, as amend-
475 ed, for membership in the association or organization,
476 including charges to members for newsletters prepared
477 by the association or organization for distribution
478 primarily to its members, charges to members for
479 continuing education seminars workshops, conventions,
480 lectures or courses put on or sponsored by the associa-
481 tion or organization, including charges for related course
482 materials prepared by the association or organization or
483 by the speaker or speakers for use during the continuing
484 education seminar, workshop, convention, lecture or
485 course, but not including any separate charge or sepa-
486 rately stated charge for meals, lodging, entertainment or
487 transportation taxable under this article: *Provided*, That
488 the association or organization pays the tax imposed by
489 this article on its purchases of meals, lodging, entertain-
490 ment or transportation taxable under this article for
491 which a separate or separately stated charge is not made.
492 A membership association or organization which is
493 exempt from paying federal income taxes under Section
494 501(c)(3) or (c)(6) of the Internal Revenue Code of 1986,
495 as amended, may elect to pay the tax imposed under this
496 article on the purchases for which a separate charge or

497 separately stated charge could apply and not charge its
498 members the tax imposed by this article or, the associa-
499 tion or organization may avail itself of the exemption set
500 forth in subdivision nine of this article relating to
501 purchases of tangible personal property for resale and
502 then collect the tax imposed by this article on those
503 items from its member.

504 (b) *Refundable exemptions.* — Any person having a
505 right or claim to any exemption set forth in this subsec-
506 tion shall first pay to the vendor the tax imposed by this
507 article and then apply to the tax commissioner, as
508 provided in section nine-b of this article, for a refund or
509 credit, or as provided in section nine-d of this article,
510 give to the vendor such person's West Virginia direct pay
511 permit number. The following sales of tangible personal
512 property and/or services are exempt from tax as pro-
513 vided in this subsection:

514 (1) Sales of tangible personal property or services to
515 bona fide charitable organizations who make no charge
516 whatsoever for the services they render: *Provided*, That
517 the exemption herein granted shall apply only to ser-
518 vices, equipment, supplies, food, meals and materials
519 directly used or consumed by these organizations, and
520 shall not apply to purchases of gasoline or special fuel;

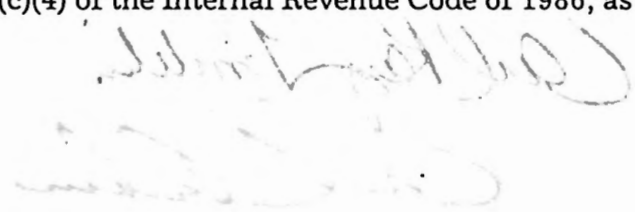
521 (2) Sales of services, machinery, supplies and materials
522 directly used or consumed in the activities of manufac-
523 turing, transportation, transmission, communication,
524 production of natural resources, gas storage, generation
525 or production of selling electric power, provision of a
526 public utility service or the operation of a utility service
527 or the operation of a utility business, in the businesses or
528 organizations named above and shall not apply to
529 purchases of gasoline or special fuel;

530 (3) Sales of property or services to nationally chartered
531 fraternal or social organizations for the sole purpose of
532 free distribution in public welfare or relief work: *Pro-*
533 *vided*, That sales of gasoline and special fuel shall be

534 taxable;

535 (4) Sales and services, fire fighting or station house
536 equipment, including construction and automotive, made
537 to any volunteer fire department organized and incorpo-
538 rated under the laws of the state of West Virginia:
539 *Provided*, That sales of gasoline and special fuel shall be
540 taxable; and

541 (5) Sales of building materials or building supplies or
542 other property to an organization qualified under
543 Section 501(c)(3) or (c)(4) of the Internal Revenue Code
544 of 1986, as amended, which are to be installed in, affixed
545 to or incorporated by such organization or its agent into
546 real property, or into a building or structure which is or
547 will be used as permanent low-income housing, transi-
548 tional housing, emergency homeless shelter, domestic
549 violence shelter or emergency children and youth shelter
550 if such shelter is owned, managed, developed or operated
551 by an organization qualified under Section 501(c)(3) or
552 (c)(4) of the Internal Revenue Code of 1986, as amended.



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

Wendy Hoover
.....
Chairman Senate Committee

Rudy Seacrest
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Carroll E. Holmes
.....
Clerk of the Senate

Bryan D. Boy
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

W. Allen
.....
Speaker House of Delegates

The within *is dispersed* this the *14th*.....
day of *March*....., 1996.

W. Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/14/96

Time 3:40 pm