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SENATE, WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



ENROLLED

SENATE BILL NO. 324

(By Senator LOVE, ET AL)



PASSED APRIL 12, 1997

In Effect FROM Passage

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LEGISLATIVE SERVICES DIVISION
STATE HOUSE

ENROLLED

Senate Bill No. 324

(BY SENATORS LOVE, SCHOONOVER AND ANDERSON)

[Passed April 12, 1997; in effect 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, relating to sales tax exemptions; and providing sales tax exemptions on services provided by certain entertainers or performing artists, on materials and services sold by certain county government agencies, and on sales by the division of natural resources of the magazine known as "Wonderful West Virginia".

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 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 the form required by
6 the tax commissioner, and deliver it to the vendor of the
7 property or service, in the manner required by the tax
8 commissioner. However, the tax commissioner may, by
9 rule, specify those exemptions authorized in this subsec-
10 tion for which exemptions certificates are not required.
11 The following sales of tangible personal property and/or
12 services are exempt as provided in this subsection:

13 (1) Sales of gas, steam and water delivered to consumers
14 through mains or pipes and sales of electricity;

15 (2) Sales of textbooks required to be used in any of the
16 schools of this state or in any institution in this state
17 which qualifies as a nonprofit or educational institution
18 subject to the West Virginia department of education and
19 the arts, the board of trustees of the university system of
20 West Virginia or the board of directors for colleges located
21 in this state;

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

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

33 (5) Sales of property or services to churches which make
34 no charge whatsoever for the services they render:
35 *Provided*, That the exemption granted in this subdivision
36 applies only to services, equipment, supplies, food for
37 meals and materials directly used or consumed by these
38 organizations, and does not apply to purchases of gasoline
39 or special fuel;

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

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

49 (B) An elementary or secondary school which maintains
50 a regular faculty and curriculum and has a regularly
51 enrolled body of pupils or students in attendance at the
52 place in this state where its educational activities are
53 regularly carried on;

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

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

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

72 (F) For purposes of this subsection:

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

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

75 (II) Gross receipts from fund raisers which include
76 receipts from admissions, sales of merchandise, perfor-

77 mance of services or furnishing of facilities in any activity
78 which is not an unrelated trade or business within the
79 meaning of Section 513 of the Internal Revenue Code of
80 1986, as amended;

81 (III) Net income from unrelated business activities,
82 whether or not the activities are carried on regularly as a
83 trade or business;

84 (IV) Gross investment income as defined in Section
85 509(e) of the Internal Revenue Code of 1986, as amended;

86 (V) Tax revenues levied for the benefit of a corporation
87 or organization either paid to or expended on behalf of the
88 organization; and

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

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

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

107 (G) The exemption allowed by this subdivision does not
108 apply to sales of gasoline or special fuel or to sales of
109 tangible personal property or services to be used or
110 consumed in the generation of unrelated business income
111 as defined in Section 513 of the Internal Revenue Code of
112 1986, as amended. The provisions of this subdivision
113 apply to sales made after the thirtieth day of June, one
114 thousand nine hundred eighty-nine: *Provided*, That the

115 exemption granted in this subdivision applies only to
116 services, equipment, supplies and materials used or
117 consumed in the activities for which the organizations
118 qualify as tax exempt organizations under the Internal
119 Revenue Code and does not apply to purchases of gasoline
120 or special fuel;

121 (7) An isolated transaction in which any taxable service
122 or any tangible personal property is sold, transferred,
123 offered for sale or delivered by the owner of the property
124 or by his or her representative for the owner's account, the
125 sale, transfer, offer for sale or delivery not being made in
126 the ordinary course of repeated and successive transac-
127 tions of like character by the owner or on his or her
128 account by the representative: *Provided*, That nothing
129 contained in this subdivision may be construed to prevent
130 an owner who sells, transfers or offers for sale tangible
131 personal property in an isolated transaction through an
132 auctioneer from availing himself or herself of the exemp-
133 tion provided in this subdivision, regardless of where the
134 isolated sale takes place. The tax commissioner may
135 propose a legislative rule for promulgation pursuant to
136 article three, chapter twenty-nine-a of this code which he
137 or she considers necessary for the efficient administration
138 of this exemption;

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

150 (9) Sales of tangible personal property to a person for
151 the purpose of resale in the form of tangible personal
152 property: *Provided*, That sales of gasoline and special fuel
153 by distributors and importers is taxable except when the
154 sale is to another distributor for resale: *Provided, how-*

155 *ever*, That sales of building materials or building supplies
156 or other property to any person engaging in the activity of
157 contracting, as defined in this article, which is to be
158 installed in, affixed to or incorporated by that person or
159 his or her agent into any real property, building or struc-
160 ture is not exempt under this subdivision;

161 (10) Sales of newspapers when delivered to consumers
162 by route carriers;

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

165 (12) Sales of radio and television broadcasting time,
166 preprinted advertising circulars and newspaper and
167 outdoor advertising space for the advertisement of goods
168 or services;

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

170 (14) Casual and occasional sales of property or services
171 not conducted in a repeated manner or in the ordinary
172 course of repetitive and successive transactions of like
173 character by a corporation or organization which is
174 exempt from tax under subdivision (6) of this subsection
175 on its purchases of tangible personal property or services:

176 (A) For purposes of this subdivision, the term "casual
177 and occasional sales not conducted in a repeated manner
178 or in the ordinary course of repetitive and successive
179 transactions of like character" means sales of tangible
180 personal property or services at fund raisers sponsored by
181 a corporation or organization which is exempt, under
182 subdivision (6) of this subsection, from payment of the tax
183 imposed by this article on its purchases, when the fund
184 raisers are of limited duration and are held no more than
185 six times during any twelve-month period and "limited
186 duration" means no more than eighty-four consecutive
187 hours; and

188 (B) The provisions of this subdivision apply to sales
189 made after the thirtieth day of June, one thousand nine
190 hundred eighty-nine;

191 (15) Sales of property or services to a school which has

192 approval from the board of trustees of the university
193 system of West Virginia or the board of directors of the
194 state college system to award degrees, which has its
195 principal campus in this state, and which is exempt from
196 federal and state income taxes under Section 501(c)(3) of
197 the Internal Revenue Code of 1986, as amended: *Provided*,
198 That sales of gasoline and special fuel are taxable;

199 (16) Sales of mobile homes to be utilized by purchasers
200 as their principal year-round residence and dwelling:
201 *Provided*, That these mobile homes are subject to tax at
202 the three-percent rate;

203 (17) Sales of lottery tickets and materials by licensed
204 lottery sales agents and lottery retailers authorized by the
205 state lottery commission, under the provisions of article
206 twenty-two, chapter twenty-nine of this code;

207 (18) Leases of motor vehicles titled pursuant to the
208 provisions of article three, chapter seventeen-a of this
209 code to lessees for a period of thirty or more consecutive
210 days. This exemption applies to leases executed on or
211 after the first day of July, one thousand nine hundred
212 eighty-seven, and to payments under long-term leases
213 executed before that date, for months of the lease begin-
214 ning on or after that date;

215 (19) Notwithstanding the provisions of section eighteen
216 of this article or any other provision of this article to the
217 contrary, sales of propane to consumers for poultry house
218 heating purposes, with any seller to the consumer who
219 may have prior paid the tax in his or her price, to not pass
220 on the same to the consumer, but to make application and
221 receive refund of the tax from the tax commissioner,
222 pursuant to rules which are promulgated after being
223 proposed for legislative approval in accordance with
224 chapter twenty-nine-a of this code by the tax commis-
225 sioner;

226 (20) Any sales of tangible personal property or services
227 purchased after the thirtieth day of September, one
228 thousand nine hundred eighty-seven, and lawfully paid for
229 with food stamps pursuant to the federal food stamp
230 program codified in 7 U.S.C. §2011 et seq., as amended, or

231 with drafts issued through the West Virginia special
232 supplement food program for women, infants and children
233 codified in 42 U.S.C. §1786;

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

236 (22) Sales of electronic data processing services and
237 related software: *Provided*, That for the purposes of this
238 subdivision "electronic data processing services" means:
239 (A) The processing of another's data, including all pro-
240 cesses incident to processing of data such as keypunching,
241 keystroke verification, rearranging or sorting of previ-
242 ously documented data for the purpose of data entry or
243 automatic processing and changing the medium on which
244 data is sorted, whether these processes are done by the
245 same person or several persons; and (B) providing access
246 to computer equipment for the purpose of processing data
247 or examining or acquiring data stored in or accessible to
248 the computer equipment;

249 (23) Tuition charged for attending educational summer
250 camps;

251 (24) Dispensing of services performed by one corpora-
252 tion, partnership or limited liability company for another
253 corporation, partnership or limited liability company
254 when the entities are members of the same controlled
255 group or are related taxpayers as defined in Section 267 of
256 the Internal Revenue Code. "Control" means ownership,
257 directly or indirectly, of stock, equity interests or member-
258 ship interests possessing fifty percent or more of the total
259 combined voting power of all classes of the stock of a
260 corporation, equity interests of a partnership or member-
261 ship interests of a limited liability company entitled to
262 vote or ownership, directly or indirectly, of stock, equity
263 interests or membership interests possessing fifty percent
264 or more of the value of the corporation, partnership or
265 limited liability company;

266 (25) Food for the following are exempt:

267 (A) Food purchased or sold by public or private schools,
268 school sponsored student organizations or school spon-

269 sored parent-teacher associations to students enrolled in
270 such school or to employees of such school during normal
271 school hours; but not those sales of food made to the
272 general public;

273 (B) Food purchased or sold by a public or private college
274 or university or by a student organization officially
275 recognized by the college or university to students en-
276 rolled at the college or university when the sales are made
277 on a contract basis so that a fixed price is paid for con-
278 sumption of food products for a specific period of time
279 without respect to the amount of food product actually
280 consumed by the particular individual contracting for the
281 sale and no money is paid at the time the food product is
282 served or consumed;

283 (C) Food purchased or sold by a charitable or private
284 nonprofit organization, a nonprofit organization or a
285 governmental agency under a program to provide food to
286 low-income persons at or below cost;

287 (D) Food sold in an occasional sale by a charitable or
288 nonprofit organization including volunteer fire depart-
289 ments and rescue squads, if the purpose of the sale is to
290 obtain revenue for the functions and activities of the
291 organization and the revenue obtained is actually ex-
292 pended for that purpose;

293 (E) Food sold by any religious organization at a social or
294 other gathering conducted by it or under its auspices, if
295 the purpose in selling the food is to obtain revenue for the
296 functions and activities of the organization and the
297 revenue obtained from selling the food is actually used in
298 carrying on those functions and activities: *Provided*, That
299 purchases made by the organizations are not exempt as a
300 purchase for resale;

301 (26) Sales of food by little leagues, midget football
302 leagues, youth football or soccer leagues and similar types
303 of organizations, including scouting groups and church
304 youth groups, if the purpose in selling the food is to obtain
305 revenue for the functions and activities of the organization
306 and the revenues obtained from selling the food is actually
307 used in supporting or carrying on functions and activities

308 of the groups: *Provided*, That the purchases made by the
309 organizations are not exempt as a purchase for resale;

310 (27) Charges for room and meals by fraternities and
311 sororities to their members: *Provided*, That the purchases
312 made by a fraternity or sorority are not exempt as a
313 purchase for resale;

314 (28) Sales of or charges for the transportation of passen-
315 gers in interstate commerce;

316 (29) Sales of tangible personal property or services to
317 any person which this state is prohibited from taxing
318 under the laws of the United States or under the constitu-
319 tion of this state;

320 (30) Sales of tangible personal property or services to
321 any person who claims exemption from the tax imposed
322 by this article or article fifteen-a of this chapter pursuant
323 to the provision of any other chapter of this code;

324 (31) Charges for the services of opening and closing a
325 burial lot;

326 (32) Sales of livestock, poultry or other farm products in
327 their original state by the producer of the livestock,
328 poultry or other farm products or a member of the pro-
329 ducer's immediate family who is not otherwise engaged in
330 making retail sales of tangible personal property; and
331 sales of livestock sold at public sales sponsored by breed-
332 ers or registry associations or livestock auction markets:
333 *Provided*, That the exemptions allowed by this subdivision
334 apply to sales made on or after the first day of July, one
335 thousand nine hundred ninety, and may be claimed
336 without presenting or obtaining exemption certificates:
337 *Provided, however*, That the farmer shall maintain
338 adequate records;

339 (33) Sales of motion picture films to motion picture
340 exhibitors for exhibition if the sale of tickets or the charge
341 for admission to the exhibition of the film is subject to the
342 tax imposed by this article and sales of coin-operated
343 video arcade machines or video arcade games to a person
344 engaged in the business of providing the machines to the
345 public for a charge upon which the tax imposed by this

346 article is remitted to the tax commissioner: *Provided*,
347 That the exemption provided in this subdivision applies to
348 sales made on or after the first day of July, one thousand
349 nine hundred ninety, and may be claimed by presenting to
350 the seller a properly executed exemption certificate;

351 (34) Sales of aircraft repair, remodeling and mainte-
352 nance services when the services are to an aircraft oper-
353 ated by a certified or licensed carrier of persons or prop-
354 erty, or by a governmental entity, or to an engine or other
355 component part of an aircraft operated by a certificated or
356 licensed carrier of persons or property, or by a governmen-
357 tal entity and sales of tangible personal property that is
358 permanently affixed or permanently attached as a compo-
359 nent part of an aircraft owned or operated by a certifi-
360 cated or licensed carrier of persons or property, or by a
361 governmental entity, as part of the repair, remodeling or
362 maintenance service and sales of machinery, tools or
363 equipment, directly used or consumed exclusively in the
364 repair, remodeling or maintenance of aircraft, aircraft
365 engines or aircraft component parts, for a certificated or
366 licensed carrier of persons or property, or for a govern-
367 mental entity;

368 (35) Charges for memberships or services provided by
369 health and fitness organizations relating to personalized
370 fitness programs;

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

375 (37) Sales of services after the thirtieth day of June, one
376 thousand nine hundred ninety-seven, by public libraries or
377 by libraries at academic institutions or by libraries at
378 institutions of higher learning;

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

382 (39) Sales of primary opinion research services after the
383 thirtieth day of June, one thousand nine hundred ninety-

384 seven, when:

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

386 (B) The results of the service activities, including, but
387 not limited to, reports, lists of focus group recruits and
388 compilation of data are transferred to the client across
389 state lines by mail, wire or other means of interstate
390 commerce, for use by the client outside the state of West
391 Virginia; and

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

394 For the purpose of this subdivision the term "primary
395 opinion research" means original research in the form of
396 telephone surveys, mall intercept surveys, focus group
397 research, direct mail surveys, personal interviews and
398 other data collection methods commonly utilized for
399 quantitative and qualitative opinion research studies;

400 (40) Sales of property or services after the thirtieth day
401 of June, one thousand nine hundred ninety-seven, to
402 persons within the state when those sales are for the
403 purposes of the production of value-added products:
404 *Provided*, That the exemption granted in this subdivision
405 applies only to services, equipment, supplies and materials
406 directly used or consumed by those persons engaged solely
407 in the production of value-added products: *Provided*,
408 *however*, That this exemption may not be claimed by any
409 one purchaser for more than five consecutive years, except
410 as otherwise permitted in this section.

411 For the purpose of this subdivision, the term "value-
412 added product" means the following products derived
413 from processing a raw agricultural product, whether for
414 human consumption or for other use: For purposes of this
415 subdivision, the following enterprises qualify as process-
416 ing raw agricultural products into value-added products:
417 Those engaged in the conversion of:

418 (A) Lumber into furniture, toys, collectibles and home
419 furnishings;

420 (B) Fruits into wine;

- 421 (C) Honey into wine;
- 422 (D) Wool into fabric;
- 423 (E) Raw hides into semi-finished or finished leather
424 products;
- 425 (F) Milk into cheese;
- 426 (G) Fruits or vegetables into a dried, canned or frozen
427 product;
- 428 (H) Feeder cattle into commonly accepted slaughter
429 weights;
- 430 (I) Aquatic animals into a dried, canned, cooked or
431 frozen product; and
- 432 (J) Poultry into a dried, canned, cooked or frozen
433 product;
- 434 (41) After the thirtieth day of June, one thousand nine
435 hundred ninety-seven, sales of music instructional services
436 by a music teacher; and artistic services or artistic perfor-
437 mances of an entertainer or performing artist pursuant to
438 a contract with the owner or operator of a retail establish-
439 ment, restaurant, inn, bar, tavern, sports or other enter-
440 tainment facility or any other business location in this
441 state in which the public or a limited portion of the public
442 may assemble to hear or see musical works or other
443 artistic works be performed for the enjoyment of the
444 members of the public there assembled when the amount
445 paid by the owner or operator for the artistic service or
446 artistic performance does not exceed three thousand
447 dollars: *Provided*, That nothing contained herein may be
448 construed to deprive private social gatherings, weddings
449 or other private parties from asserting the exemption set
450 forth in this subdivision. For the purposes of this exemp-
451 tion, artistic performance or artistic service means and is
452 limited to the conscious use of creative power, imagination
453 and skill in the creation of aesthetic experience for an
454 audience present and in attendance, and includes, and is
455 limited to, stage plays, musical performances, poetry
456 recitations and other readings, dance presentation,
457 circuses and similar presentations, and does not include

458 the showing of any film or moving picture, gallery presen-
459 tations of sculptural or pictorial art, nude or strip show
460 presentations, video games, video arcades, carnival rides,
461 radio or television shows or any video or audio taped
462 presentations or the sale or leasing of video or audio tapes,
463 airshows, or any other public meeting, display or show
464 other than those specified herein: *Provided, however,*
465 That nothing contained herein may be construed to
466 exempt the sales of tickets from the tax imposed in this
467 article. The state tax commissioner shall propose a
468 legislative rule pursuant to article three, chapter twenty-
469 nine-a of this code establishing definitions and eligibility
470 criteria for asserting this exemption which is not inconsis-
471 tent with the provisions set forth herein: *Provided further,*
472 That nude dancers or strippers shall not be considered as
473 entertainers for the purposes of this exemption;

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

499 imposed under this article on the purchases for which a
500 separate charge or separately stated charge could apply
501 and not charge its members the tax imposed by this article
502 or, the association or organization may avail itself of the
503 exemption set forth in subdivision (9) of this subsection
504 relating to purchases of tangible personal property for
505 resale and then collect the tax imposed by this article on
506 those items from its member;

507 (43) Sales of governmental services or governmental
508 materials after the thirtieth day of June, one thousand
509 nine hundred ninety-seven, by county assessors, county
510 sheriffs, county clerks or circuit clerks in the normal
511 course of local government operations; and

512 (44) Direct or subscription sales by the division of
513 natural resources of the magazine currently entitled
514 "Wonderful West Virginia".

515 (b) *Refundable exemptions.* — Any person having a right
516 or claim to any exemption set forth in this subsection shall
517 first pay to the vendor the tax imposed by this article and
518 then apply to the tax commissioner for a refund or credit,
519 or as provided in section nine-d of this article, give to the
520 vendor his or her West Virginia direct pay permit number.
521 The following sales of tangible personal property and/or
522 services are exempt from tax as provided in this subsec-
523 tion:

524 (1) Sales of property or services to bona fide charitable
525 organizations who make no charge whatsoever for the
526 services they render: *Provided*, That the exemption
527 granted in this subdivision applies only to services,
528 equipment, supplies, food, meals and materials directly
529 used or consumed by these organizations, and shall not
530 apply to purchases of gasoline or special fuel;

531 (2) Sales of services, machinery, supplies and materials
532 directly used or consumed in the activities of manufactur-
533 ing, transportation, transmission, communication, produc-
534 tion of natural resources, gas storage, generation or
535 production or selling electric power, provision of a public
536 utility service or the operation of a utility service or the
537 operation of a utility business, in the businesses or organi-

538 zations named in this subdivision and shall not apply to
539 purchases of gasoline or special fuel;

540 (3) Sales of property or services to nationally chartered
541 fraternal or social organizations for the sole purpose of
542 free distribution in public welfare or relief work: *Pro-*
543 *vided*, That sales of gasoline and special fuel are taxable;

544 (4) Sales and services, fire fighting or station house
545 equipment, including construction and automotive, made
546 to any volunteer fire department organized and incorpo-
547 rated under the laws of the state of West Virginia: *Pro-*
548 *vided*, That sales of gasoline and special fuel are taxable;
549 and

550 (5) Sales of building materials or building supplies or
551 other property to an organization qualified under Section
552 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as
553 amended, which are to be installed in, affixed to or
554 incorporated by the organization or its agent into real
555 property, or into a building or structure which is or will be
556 used as permanent low-income housing, transitional
557 housing, an emergency homeless shelter, a domestic
558 violence shelter or an emergency children and youth
559 shelter if the shelter is owned, managed, developed or
560 operated by an organization qualified under Section
561 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as
562 amended.

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

[Handwritten Signature]

.....
Chairman Senate Committee

[Handwritten Signature]

.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Handwritten Signature]

.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker House of Delegates

The within *is approved* this the *30* day of *May*, 1997

[Handwritten Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/24/97

Time 8:46 am