Task Force #2
of the
Joint Subcommittee to Study and Revise
Virginia's State Tax Code

HJR 60 (2002)
HJR 685/SJR 387 (2001)

August 29, 2002

Task Force #2 held its fourth and final meeting on August 19, 2002, in the General Assembly Building in Richmond.

Delegate Robert D. Orrock, Sr., as chairman of the House Finance Special Subcommittee on Sales and Use Tax Exemptions for Nonprofit Entities, presented the final report of his Subcommittee. His Subcommittee recommended that, effective July 1, 2004, the Department of Taxation administratively grant sales and use tax exemptions to any nonprofit entity that meets the following criteria to be established by the General Assembly:

A. 1. The entity is federally tax exempt (i) under § 501 (c) (3) or (ii) under § 501 (c) (4) and the entity (if it is under § 501 (c) (4)) is organized for charitable purposes; or

2. The entity has annual receipts less than the threshold required under § 501 (c) (3) and § 501 (c) (4) ($5,000), and

B. The entity is serving the public good and provides a statement as to the specific public good being served; and

C. The entity is in compliance with state solicitation laws; and

D. The entity's administrative costs are less than _____, relative to its gross revenue (no consensus on specific restriction); and

E. If the entity's gross annual revenue was $250,000 or greater in the previous year, then the entity must provide a financial audit performed by an independent certified public accountant; and

F. If the entity filed a federal 990 or 990 EZ tax form with IRS, then it must provide a copy of such form to the Tax Dept.

G. If the entity does not file a federal 990 or 990 EZ tax form with IRS, then the entity must provide the following information:

1. A list of the Board of Directors or other responsible agents of the entity (comprised of at least two individuals), with names and addresses (addresses must be where the individual physically can be found); and

2. The location where the financial records of the entity are available for public inspection.

The duration of each exemption granted by the Tax Department shall be no less than five years and no greater than seven years. To maintain an exemption that otherwise would expire, each entity must provide the Tax Department the same information as required upon initial exemption and meet the same criteria.

The Tax Department shall develop all other reasonable rules and regulations necessary to carry out the exemption process within the constraints set forth herein. The Tax Department shall file an annual report with the Chairmen of the House Finance Committee, the House Appropriations Committee, and the Senate Finance Committee, setting forth the annual fiscal impact of the exemptions for nonprofit entities.

David L. Bailey spoke briefly on behalf of the Coalition of Virginia Nonprofits generally endorsing the Orrock Subcommittee's recommendations.

Staff presented an update on the BPOL work group of interested parties. That work group has not reached a consensus on any alternatives to recommend. However, the work group will meet again the first week of September.

George Peyton, speaking on behalf of the Retail Merchants Association of Greater Richmond, the Retail Alliance of Hampton Roads, and the Virginia Retail Merchants Association presented two alternatives for replacing the BPOL tax: (i) gradually eliminate BPOL over a five-year period and replace the revenue with a 1/2 percent increase in the sales and use tax and, at the end of five years, by a .25% increase in the corporate income tax, or, alternatively (ii) gradually eliminate BPOL over a ten-year period and replace the lost revenue with a 1/2 percent increase in the sales and use tax, and, at the end of the ten-year period, by a .25% increase in the corporate income tax.

Delegate Robert D. Hull discussed a prior legislative study regarding local revenue resources (House Document No. 69 (1995)) and recommended that legislation be adopted giving counties the same taxing authority as cities and towns, as was provided in a bill he introduced last session (HB 16 (2002)). Representatives of various amusement industries urged the Task Force not to authorize counties to impose amusement taxes.

Donald L. Hall, President of the Virginia Automobile Dealers Association, made a presentation recommending that the sales and use tax on motor vehicles not be increased. He suggested that the task force examine revenue lost through the understatement of the actual purchase price on "casual sales" (i.e. sales not from a dealer).

Staff presented follow-up information from the July 30th Task Force meeting including: (i) categories of services on which sales and use tax might be imposed, (ii) state-by-state comparisons in vendors' payment schedules for remitting sales and use taxes collected, (iii) state-by-state comparisons of state death taxes, (iv) state-by-state comparisons of cigarette taxes, (v) local cigarette tax rates in Virginia, (vi) estimates for a tax on the manufacture of cigarettes, (vii) estimates on the fiscal impact of reducing the taxable price of a motor vehicle by the value of any trade-in, and (viii) information on the general and non-general funds for transportation in Virginia.

The Task Force then considered each of the issues that had been assigned to it. For a full accounting of all action taken on each issue refer to the revised Task Force #2 Issue Form that will be posted on this site. Some of the Task Force's recommendations included: (i) adoption of the Orrock Subcommittee's recommendations on sales and use tax exemptions for nonprofit entities, with the proviso that the current moratorium on any new sales and use tax exemptions continue at least until budget pressures ease; (ii) impose the sales and use tax on personal services and repair services, and consider removing the exemption provided to various public service corporations; (iii) eliminate the accelerated sales tax payments by vendors; (iv) maintain the status quo of no new taxes on internet access or digital downloads; and (v) eliminate the 1978 "freeze date" in Virginia's estate tax so that the tax will be phased out over a four year period like most other states in conformity with the federal Tax Relief Act of 2001.

The Task Force will report its recommendations to the full HJ 60 Joint Subcommittee on September 12, 2002, at 10:00 a.m. in Senate Room A of the General Assembly Building.