

## Department of Taxation

**Regulation Title:** SCHOOL AND COLLEGES, certain educational institutions and other instructions of learning  
**VAC Number:** 23 VAC 10-210-4020

- 1. Statement identifying and describing the source of the state and/or federal legal authority to promulgate the contemplated regulation, the scope of the authority provided, and the extent to which the authorized rulemaking is mandatory or discretionary, together with an attached copy of all cited legal provisions;**

Section 58.1-203 of the Code of Virginia authorizes the Commissioner of the Department of Taxation to promulgate regulations related to the interpretation and enforcement of the laws of the Commonwealth governing taxes administered by the department.

- 2. Statement delineating the potential issues to be addressed in the proposed regulation;**

The proposed amendments to the regulation will clarify what constitutes an educational facility qualified to obtain an exemption from the application of sales and use taxes. In addition, the regulation will also provide guidance to nonprofit schools regarding school lunches, school textbooks, and sales by affiliated organizations.

- 3. Statement setting forth the reasoning by which the agency has concluded that the contemplated regulation is essential to protect the health, safety or welfare of citizens or for the efficient and economical performance of an important governmental function, including a discussion of the problems the regulations are intended to solve;**

This regulation is essential as questions frequently arise as to whether a certain organization qualifies as a school, college, or other institutions of learning and is entitled to the exemption from the tax. The proposed amendment will alleviate any ambiguity that may exist in the statute regarding what qualifies as an educational institution.

- 4. Statement describing the process by which the agency has considered, or will consider, less burdensome and less intrusive alternatives for achieving the essential purpose, the alternatives considered or to be considered, and the reasoning by which the agency has rejected any of the alternatives considered.**

Alternatives which might achieve the essential purpose for which the regulatory action has been undertaken were considered. However, since the requirements that must be met to qualify as an exempt nonprofit institution of learning are not specifically covered by the

statute, it is in the best interest of the department for litigation purposes and for the citizens of the Commonwealth that a regulation is promulgated.