

Department of Taxation

Regulation Title: VETERINARIANS
VAC Number: 23 VAC 10-210-6050

- 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 will ensure an accurate understanding of the law and promote voluntary compliance. There has been a great deal of confusion over the application of the tax to certain veterinary services and sales. Some veterinarians have collected the tax on the sales of prescription foods and some have not.

The proposed amendments will address the proper application of the sales and use tax to charges for services and sales and uses of tangible personal property by veterinarians, clarify provisions related to the sale of prescription medicines, drugs, and foods. In addition, the regulation will authorize certain nonprescription drugs and medicines to be purchased exempt from sales tax under a resale exemption certificate, and permit nonprescription items to be sold to farmers exempt from the tax if used in agricultural production for market.

- 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;**

Section 58.1-205 of the Code of Virginia sets forth the rules for the interpretation of tax laws of the Commonwealth. Regulations promulgated are sustained unless they are unreasonable or plainly inconsistent with applicable provisions of law. The current regulation does not reflect the current policy of the department or current law. It is

essential that the department=s regulations accurately reflect current policy in the event of litigation.

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 have been considered. The department previously distributed a Tax Bulletin (86-4) on the prescription issue. However, due to the confusion in the industry and among customers regarding the tax status of various charges for services and tangible personal property, the department has determined that a regulation is necessary to ensure a clear understanding of the policy, to enhance voluntary compliance, and to provide an accurate vehicle upon which the department can rely in court.