

DEPARTMENT OF TAXATION

2004 Fiscal Impact Statement

1. **Patron** J. Chapman Petersen

2. **Bill Number** HB 246

3. **Committee** House Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Retail Sales and Use Tax: Amend Sales and Use Tax Definition to Include Prepaid Calling Cards

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would subject "prepaid calling arrangements" (i.e., calling cards) to the retail sales and use tax, provided such cards are exempt from all state and local utility taxes.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

6b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2004-05	\$780,000	GF
	\$260,000	Local
	\$130,000	TTF
2005-06	\$780,000	GF
	\$260,000	Local
	\$130,000	TTF
2006-07	\$780,000	GF
	\$260,000	Local
	\$130,000	TTF
2007-08	\$780,000	GF
	\$260,000	Local
	\$130,000	TTF
2008-09	\$780,000	GF
	\$260,000	Local
	\$130,000	TTF

2009-10	\$780,000	GF
	\$260,000	Local
	\$130,000	TTF

7. Budget amendment necessary: Yes. Page 1, Revenue Estimates.

8. Fiscal implications:

If this bill is passed, state and local retail sales and use tax revenue is estimated to increase by \$1.170 million in FY 2005 through FY 2010. All revenue estimates assume a July 1, 2004 effective date and are based on the assumption that the sales of prepaid calling cards will remain constant over the next six years.

The Department would incur minimal administrative costs if this bill should pass.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Generally

Virginia law does not impose the retail sales and use tax on telecommunication services. However, this is not the case in many other states. The Federation of Tax Administrators conducted a States Survey in 1996 on the taxation of services by the fifty states and the District of Columbia. The survey included both Industrial and Residential use in surveying for telephone, telegraph, and cell phone services. For industrial use, 44 states taxed **intrastate** telephone and telegraph services, 21 states taxed **interstate** telephone and telegraph services, and 40 states taxed cellular telephone services. For residential use, 42 states taxed **intrastate** telephone and telegraph services, 20 states taxed interstate telephone and telegraph services, and 40 states tax cellular telephone services. There was no data collected regarding the taxation of prepaid calling cards. However, many of the same states that tax all or some telecommunication services, also tax prepaid calling cards.

Prepaid calling cards are sold as "collectible" and "uncollectible". Collectible calling cards have a surrender value in which the holder may cash in the card and receive cash for unused minutes. Uncollectible calling cards have no surrender value and may only be redeemed in the form of long-distance telephone calls. It has been the Department's policy to exempt uncollectible calling cards, and to tax collectible calling cards. This policy is consistent with the exemption under current law for telephone and telecommunication services, including those furnished by Internet service providers.

True Object Test

The Department uses the “true object” test to determine whether a transaction qualifies as the taxable sale of tangible personal property or the sale of an exempt service. The “true object” of the purchase of an uncollectible prepaid calling card is the right to make prepaid long-distance telephone calls and has no redeemable value, unlike collectible calling cards that have a cash value in addition to the right to make long-distance calls.

cc: Secretary of Finance

Date: 1/27/04 WBS