

DEPARTMENT OF TAXATION

2006 Fiscal Impact Statement

1. **Patron** Harvey B. Morgan

3. **Committee** House Finance

4. **Title** Sales and Use Tax Exemption;
Funeral Expenses

2. **Bill Number** HB 328

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would provide a sales and use tax exemption for the first \$2,500 in funeral expenses that are otherwise taxable to the consumer.

The effective date of this bill is not specified.

6. Fiscal Impact Estimates are: Not available. (See Line 8.)

7. Budget amendment necessary: No.

8. Fiscal implications:

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as "routine," and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not "routine." Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

This bill would result in a loss of tax revenue of unknown magnitude. There is not enough information available to develop an estimate for this bill. According to the National Funeral Directors Association (NFDA), the average cost of a funeral, as of July 2004, is \$6,500. That cost includes an outer burial container, but does not include cemetery costs.

The National Center for Health and Statistic's 2004 report estimates 57,196 deaths for calendar year 2002 in the state of Virginia. Assuming that this exemption would be applicable in 50% of the deaths, the revenue loss would exceed \$3.2 million annually.

9. Specific agency or political subdivisions affected: Department of Taxation

10. Technical amendment necessary: Yes.

To clarify that the purchaser is the beneficiary of the exemption, TAX suggests the following technical amendment:

Page 2, line 104 after taxable

Insert: to the purchaser of funeral services.

11. Other comments:

Generally

The 1979 General Assembly passed legislation that required funeral directors to itemize charges for funeral expenses. Because of this change in law, funeral directors are now required to collect and remit Virginia sales tax on the total charges for tangible personal property listed on the itemized statement of funeral expenses. Tangible personal property subject to this sales tax includes such items as caskets, vaults, crypts, or boxes, air shipment trays, cremation rental caskets, urns, clothing, flowers, crucifixes, rosaries, registration books, and acknowledgement cards. A funeral director or funeral home may purchase these items exempt from sales tax by issuing the supplier a resale certificate of exemption, but must collect and remit sales tax on these items.

Charges for professional services, preparation of remains, funeral home facilities and the like are not subject to the tax. However, any tangible personal property purchased for use or consumption by the funeral home to provide these services are taxable at the time of purchase. In addition, in the event that tangible personal property is provided as part of professional services rendered and invoiced as a flat charge to funeral homes, sales tax applies to any portion of that charge.

Proposal

This bill would exempt from sales tax the first \$2,500 in funeral expenses that are on the itemized statement of funeral expenses for tangible personal property. The exemption would not be applicable to any tangible personal property purchased for use or consumption by the funeral home to provide funeral-related services.

cc : Secretary of Finance

Date: 01/22/2006 KP
DLAS File Name: HB328F161.doc