# DEPARTMENT OF TAXATION
# 2007 Fiscal Impact Statement

**1. Patron** Samuel A. Nixon, Jr.

**2. Bill Number** HB 2723

**House of Origin:**
_____ **Introduced**
_____ **Substitute**
_____ **Engrossed**

**Second House:**
_____ **In Committee**
_____ **Substitute**
__X__ **Enrolled**

**3. Committee** Passed Senate and House

**4. Title** Communications Sales and Use Tax: Exemption for Military Base Customers

**5. Summary/Purpose:**

This bill would provide a communications sales and use tax exemption to customers on federal military bases or installations where a franchise fee is payable to the federal government with respect to the communications services.

This bill has an emergency clause and is retroactive to January 1, 2007.

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

**7. Budget amendment necessary:** No.

**8. Fiscal implications:**

Administrative Costs

Any administrative costs incurred implementing this bill could be recovered by TAX from the Communications Sales and Use Tax Fund. TAX's costs to implement this exemption would be limited to the cost of notifying the affected cable companies and would be minimal.

Revenue Impact

This bill would have no impact on state revenues. Prior to January 1, 2007 and the implementation of the communications sales and use tax, communications services purchased by customers on any federal military base or installation were not subject to the franchise fees levied by Virginia localities. This bill would have no impact on local revenues because localities have never received cable franchise or other taxes and fees from customers on federal military bases and installations.

**9. Specific agency or political subdivisions affected:**

Communications services customers on federal military bases and installations

**10. Technical amendment necessary:** No.

**11. Other comments:**

<u>Background</u>

2006 House Bill 568 (Acts of Assembly 2006, Chapter 780) replaced many of the state and local communications taxes and fees with a centrally administered Communications Sales and Use Tax and a uniform statewide E-911 Tax on landline telephone service beginning January 1, 2007. Additionally, House Bill 568 imposed a public rights-of-way use fee on cable television providers beginning January 1, 2007.

Under House Bill 568, revenue from the Communications Sales and Use Tax, the Landline E-911 Tax and the Cable Television Rights-of-Way Fee (the "Communications Taxes") is collected and remitted monthly by communications services providers to TAX and deposited into a non-reverting fund known as the Communications Sales and Use Tax Trust Fund (the "Fund"). After transferring moneys from the Fund to TAX to pay for the direct costs of administering the Communications Taxes, the moneys in the Fund are allocated and distributed to localities after payment (1) to the Department of Deaf and Hard-of-Hearing to fund the telephone relay service center and (2) any franchise fee amount due to localities in accordance with any cable television franchise agreements in effect as of January 1, 2007. Each locality's share of the net revenue is distributed as soon as practicable after the end of the month based on the locality's share of total revenues received from the following taxes and fees in Fiscal Year 2006 from local tax rates adopted on or before January 1, 2006:

- Local consumer utility tax on landline and wireless telephone service;
- Local E-911 tax on landline telephone service;
- The portion of the local BPOL tax on public service companies exceeding .5% currently billed to customers in some grandfathered localities;
- Cable television franchise fees;
- Video programming excise tax on cable television services; and
- Consumer utility tax on cable television.

House Bill 568 required the Auditor of Public Accounts ("APA") to determine the amount of revenues received by every locality for Fiscal Year 2006, at rates adopted on or before January 1, 2006, for each of these taxes and fees. Local governments and service providers were required to cooperate with the APA and provide requested information.

Additionally, on an annual basis, the APA is required to collect from local governments and providers any data necessary to determine changes in (1) market area and number of customers served, (2) types of services available, (3) population, and (4) possible local reimbursement. The APA is required to make an annual report of his findings to the chairmen of the House and Senate Finance Committees no later than December 1 each year.

As part of the restructuring of Virginia's communications taxes provided by 2006 House Bill 568 (Acts of Assembly 2006, Chapter 780), cable television consumers will pay a communications sales and use tax on cable service instead of a cable franchise fee. TAX will pay the cable television franchise fees owed to local governments from communications sales and use tax revenues. House Bill 568, however, did not terminate the obligation of non-governmental consumers located on federal military bases and installations to pay cable franchise fees to the federal government. As House Bill 568 did not exempt these cable services from the new communications sales and use tax, non-governmental consumers located on federal military bases and installations must pay both the cable franchise fee and the communications sales and use tax.

<u>Proposal</u>

This bill would exempt customers on federal military bases or installations where a franchise fee is payable to the federal government from the communications sales and use tax. The exemption proposed by this bill would relieve affected consumers from paying both the communications sales and use tax and a cable franchise fee on the same services.

cc : Secretary of Finance

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