

DEPARTMENT OF TAXATION

2009 Fiscal Impact Statement

1. **Patron** A. Donald McEachin

2. **Bill Number** SB 1474

3. **Committee** Senate Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Retail Sales and Use Tax: Dealer Discounts
for Certified Software

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide an additional dealer discount to retailers who use a "certified software product" certified by the Department of Taxation in order to account for or remit the local Retail Sales and Use Tax. In return for purchasing and using certified software products, retailers would be entitled to a percentage discount on the 1% local Retail Sales and Use Tax. This bill would also eliminate the current dealer's discount on the state Retail Sales and Use Tax for those retailers who do not use a certified software product in order to account for and remit the local Retail Sales and Use Tax. The requirement to use a certified software product in order to be eligible for the current dealer discount on the state Retail Sales and Use Tax would not apply to "small dealers," which term would be defined by the Virginia Department of Taxation.

Under current law, Virginia provides dealers a discount from the state Retail Sales and Use Tax in order to compensate them for accounting for and remitting the state Retail Sales and Use Tax. Dealers are given a percentage amount of the first three percent of the state Retail Sales and Use Tax levied. The discount is only available for retailers that timely submit their returns and timely pay the amount due.

The effective date of this bill is July 1, 2010.

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

6a. **Expenditure Impact:**

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Positions</i> | <i>Fund</i> |
|---------------------------|-----------------------|-------------------------|--------------------|
| 2008-09 | \$0 | 0 | GF |
| 2009-10 | \$484,900 | 0 | GF |
| 2010-11 | \$ 67,800 | 0 | GF |
| 2011-12 | \$ 49,500 | 0 | GF |
| 2012-13 | \$ 41,800 | 0 | GF |
| 2013-14 | \$ 38,400 | 0 | GF |
| 2014-15 | \$ 37,300 | 0 | GF |

7. **Budget amendment necessary:** Yes.

Item(s): 270 and 273, Department of Taxation

8. Fiscal implications:

Administrative Costs:

This bill would require TAX to provide an additional dealer discount to retailers who use a certified software product. In order to do so, TAX would have to add new lines to the existing Retail Sales and Use Tax Return and update its systems in order to capture the data on the new lines.

TAX implemented a new Integrated Revenue Management System (IRMS) in August 2005. IRMS includes an imaging system, a data entry system, a remittance system, a customer relationship management system, a collections system, an audit system, an Internet suite of systems, and back-office systems that process the registrations of taxpayers and the processing of their returns and payments. Given the size and complexity of TAX's systems, TAX would incur estimated costs of \$484,900 in Fiscal Year 2010 to make the necessary changes to its systems and forms.

TAX would incur costs of \$484,900 in Fiscal Year 2010, \$67,800 in Fiscal Year 2011, \$49,500 in Fiscal Year 2012, \$41,800 in Fiscal Year 2013, \$38,400 in Fiscal Year 2014, and \$37,300 in Fiscal Year 2015 in implementing this proposal.

Revenue Impact:

As the introduced Executive Budget assumes the elimination of the dealer discount on the state Retail Sales and Use Tax, this bill would have no impact on state revenues.

As the discount proposed by this bill would be paid out of the local option Retail Sales and Use Tax, this bill would result in an unknown loss to localities in local option Retail Sales and Use Tax revenue. The magnitude of this loss would depend on the number of dealers choosing to purchase the software and the cost of the required software.

9. Specific agency or political subdivisions affected:

TAX
All localities

10. Technical amendment necessary: No.

11. Other comments:

Current Law

The 1% local Retail Sales and Use Tax collected by dealers is distributed monthly to counties and cities based on the locality where the purchases are made by customers in Virginia, as reported by the dealers. Out-of-state vendors who hold certificates of registration to collect the use tax from their customers are required, to the extent reasonably practicable, to break down their shipments into Virginia by cities and counties. If the out-of state dealer is unable to accurately assign any shipment to a particular city or

county, the local use tax is remitted to the Commonwealth by that dealer without attempting to assign the shipment to any city or county. That revenue is distributed proportionately each month among cities and counties based on taxable retail sales in each county and city in the month.

Virginia law provides a discount from the state Retail Sales and Use Tax to retailers to compensate them for accounting for and remitting the state Retail Sales and Use Tax. Dealers are given a percentage amount of the first 3% of the state Retail Sales and Use Tax levied. Retailers with monthly taxable sales ranging from \$0 to \$62,500 are given a 4% percent discount of the first 3% of the Retail Sales and Use Tax levied. Dealers with monthly taxable sales ranging from \$62,501 to \$208,000 are given a 3% discount of the first 3% of the Retail Sales and Use Tax levied. Dealers with monthly taxable sales of \$208,001 and above are given a 2% discount of the first 3% of the Retail Sales and Use Tax levied. Dealers must timely submit their returns and timely pay the amount due in order to qualify for this dealer's discount. Current law does not provide a dealer's discount for the payment of the local Retail Sales and Use Tax.

Proposal

This bill would provide an additional dealer's discount for retailers who use a certified software product in order to account for and remit the local Retail Sales and Use tax. Like the current dealer discount, the additional discount would be offered in the form of a deduction, and would be available only for retailers who timely submitted their returns and timely paid the amount due.

Each dealer would be required to certify annually to TAX the use of a certified software product in order to be eligible for the discount. "Certified software product" would be defined as any software product that has been certified by TAX as suitable for accounting for the local Retail Sales and Use Tax that accurately determines the locality of the taxable transaction. Similar to the state Retail Sales and Use tax dealer discount currently offered, the dealer would receive a percentage of the 1% local Retail Sales and Use Tax, as follows:

| <u>Monthly Taxable Sales</u> | <u>Percentage</u> |
|------------------------------|-------------------|
| \$0 to \$62,500 | 4% |
| \$62,501 to \$208,000 | 3% |
| \$208,001 and above | 2% |

The total discount paid would be limited to the amount paid for the certified software product.

Retailers who do not use a certified software product to account for and remit the local Retail Sales and Use Tax would not be entitled to this discount. In addition, these retailers would no longer be entitled to the current discount offered to retailers for accounting for and remitting the state Retail Sales and Use Tax.

This bill would require that the Department of Taxation consult with representatives of the Virginia Association of Counties, the Virginia Municipal League, the Virginia Retail Merchants Association, the Retail Merchants Association of Tidewater Virginia, and the Virginia Chamber of Commerce in order to develop a list of certified software and publish this list in hard copy and on its Internet website not less than once each year. The updated list would be required to be published no later than January 1st of each year, beginning in 2010. The Department of Taxation would also be required to develop and publish guidelines to implement this bill that define a "small dealer" and address policies and issues related to the additional dealer discount. TAX would be required to consult with the organizations set forth above in developing these guidelines.

The effective date of this bill would be July 1, 2010.

Similar Bills

House Bill 2383 and **Senate Bill 987** would eliminate the discounts provided dealers as compensation for accounting for and timely remitting the state Retail Sales and Use Tax, the Motor Vehicle Fuel Sales Tax in Certain Transportation Districts, the Tire Recycling Fee, the Communications Sales and Use Tax, the Tax for Enhanced 911 Service levied on land line telephone service, and the Tobacco Products Tax. These bills would also eliminate the discount provided as compensation to stamping agents on sales of Virginia revenue stamps. Additionally, these bills would eliminate the discount provided as compensation to Fuels Tax suppliers and distributors

cc : Secretary of Finance

Date: 1/25/2009 KP
DLAS File Name: SB1474F161.doc