

# DEPARTMENT OF TAXATION

## 2009 Fiscal Impact Statement

1. **Patron** R. Creigh Deeds

2. **Bill Number** SB 924

3. **Committee** Senate Finance

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

4. **Title** Retail Sales and Use Tax; Refund for Certain Machinery and Equipment

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

TAX understands that the patron plans to introduce a substitute bill. This impact statement addresses the substitute bill.

This bill would provide a refund of the Retail Sales and Use Tax paid on the purchase or lease of machinery and equipment with a sales price of at least \$50,000. In order to be eligible for this refund, the machinery or equipment would need to 1) be used in a Virginia locality; and 2) be part of a new investment that would result in the taxpayer creating at least 10 additional jobs paying at least the average prevailing wage (and the standard fringe benefits) in the locality. No refunds would be granted for i) general building improvements, ii) machinery or equipment purchased by a public utility, unless used in the production of renewable energies, iii) machinery or equipment purchased as part of a capital investment for which the taxpayer has received an economic development incentive grant from the Commonwealth, or iv) machinery and equipment for which any tax credit, grant, or other payment is taken, claimed, or paid under Virginia law.

This bill is effective for purchases made on or after July 1, 2009.

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

#### 6a. **Expenditure Impact:**

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Positions</b></i>	<i><b>Fund</b></i>
2008-09	\$200,000	0	GF
2009-10	\$185,500	3	GF
2010-11	\$227,000	3	GF
2011-12	\$231,100	3	GF
2012-13	\$235,700	3	GF
2013-14	\$240,300	3	GF

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

ITEM(S): 270 and 273, Department of Taxation

## **8. Fiscal implications:**

### Administrative Costs Impact

TAX would incur estimated administrative costs of \$200,000 in Fiscal Year 2009, \$185,500 in Fiscal Year 2010, \$227,000 in Fiscal Year 2011, \$231,100 in Fiscal Year 2012, \$235,700 in Fiscal Year 2013, and \$240,300 in Fiscal Year 2014. These costs include 3 full time employees, 1 auditor and 2 customer service representatives, and the necessary systems changes and new form required to operate the refund program. Due to the nature of the sales tax exemption process, TAX does not currently issue large numbers of sales tax refunds. This bill would substitute a refund process for an exemption certificate process, therefore necessitating a large expenditure by TAX to issue the expected volume of refunds.

### Revenue Impact

Passage of this bill would result in a loss of Retail Sales and Use Tax revenues. However, given the broad nature of the proposed refunds, TAX is unable to estimate the magnitude of the revenue loss. A wide variety of machinery and equipment would likely qualify for the refund.

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

Department of Taxation  
All localities

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

## **11. Other comments:**

### Generally

All tangible personal property is subject to the Retail Sales and Use Tax, unless a specific exemption is provided by statute. Current law, in part, provides Retail Sales and Use Tax exemptions for the following related items:

- Machinery or tools used directly in processing, manufacturing, refining, mining or converting products for sale or resale;
- Tangible personal property purchased for use in research and development;
- Semiconductor equipment and other tangible personal property;
- Railroad rolling stock when sold or leased by the manufacturer;

- Broadcasting equipment used by commercial radio and television companies, cable television systems, or video programmers; and
- Equipment used in the production of audiovisual works;
- Machinery or tools used directly in making feed for sale or resale;
- Machinery or tools used directly in harvesting forest products for sale;

### Proposal

This bill would provide a refund of the Retail Sales and Use Tax paid on the purchase or lease of machinery and equipment with a sales price of at least \$50,000. In order to be eligible for this refund, the machinery or equipment would need to 1) be used in a Virginia locality; and 2) be part of a new investment that would result in the taxpayer creating at least 10 additional jobs paying at least the average prevailing wage (and the standard fringe benefits) in the locality. No refunds would be granted for i) general building improvements, ii) machinery or equipment purchased by a public utility, unless used in the production of renewable energies, iii) machinery or equipment purchased as part of a capital investment for which the taxpayer has received an economic development incentive grant from the Commonwealth, or iv) machinery and equipment for which any tax credit, grant, or other payment is taken, claimed, or paid under Virginia law.

In order to obtain the refund, the taxpayer would be required to present evidence of the new investment and sales receipts to the Tax Commissioner. Refunds would not be allowed for machinery or equipment that already may be purchased exempt from tax under an existing exemption.

This bill is effective for purchases made on or after July 1, 2009.

cc : Secretary of Finance

Date: 1/27/2009 AM  
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