

DEPARTMENT OF TAXATION

2009 Fiscal Impact Statement

1. **Patron** Charles J. Colgan

2. **Bill Number** SB 987

3. **Committee** House Finance

House of Origin:

☐ Introduced

☐ Substitute

☐ Engrossed

4. **Title** Retail Sales and Use Tax Dealer Discount;
Accelerated Payment of Sales and Use Tax
Required

Second House:

☒ In Committee

☐ Substitute

☐ Enrolled

5. **Summary/Purpose:**

Beginning in June, 2010, this bill would require any dealer with taxable sales and purchases of \$50 million or greater in the preceding fiscal year to make a payment of his estimated June, 2010 tax collections by June 30, 2010. Any affected dealer who fails to make a payment of at least 80 percent of his actual June, 2010 collections would be unable to receive a dealer discount when he files his regular June, 2010 return on or before July 20, 2010, and would be subject to a penalty of 6 percent of the underpayment. The amount of the estimated payment may not be reduced by the dealer discount. Any amount paid in excess of the actual tax collected by the dealer would be taken as a credit by the dealer on subsequent months returns. The estimated payment required would take place each June thereafter.

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

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

6b. **Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2008-09	\$0	GF
2009-10	\$112.4 million	GF
	\$28.1 million	Holding Account
2010-11	\$0	GF
2011-12	\$0	GF
2012-13	\$0	GF
2013-14	\$0	GF
2014-15	\$0	GF

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

ITEM(S): Page 1, Revenue Estimates

8. Fiscal implications:

Administrative Costs

TAX considers implementation of this bill as "routine," and does not require additional funding.

Revenue Impact

The Senate has adopted budget amendments that would treat all of the state portion of the estimated payment of June collections as General Fund revenue. The estimated payment would not be reduced by the amount of the dealer's discount. No distribution of the state portion of the estimated Retail Sales and Use Tax collected would be made to the Transportation Trust Fund or to localities based on school-age population unless the Governor determines that the funds are available for transfer. The Governor would need to report his determination to the Chairmen of the Senate Finance, House Finance, and House Appropriations Committees in August of each year.

It is estimated that this bill would generate a total of \$140.5 million in additional revenue in Fiscal Year 2010. This estimate is based on the assumption that dealers would remit only the required 80 percent of actual June collections to avoid penalties, but no more. Based on the procedures of the previous accelerated sales tax program, it is assumed that under this bill 80 percent of the accelerated sales and use tax remitted (\$112.4 million in Fiscal Year 2010) would increase the General Fund. Twenty percent of the estimated June payment, an estimated \$28.1 million, would be placed into a holding account in June, 2010 to represent the local tax portion of the Retail Sales and Use Tax. On or before July 20, 2010, dealers would submit returns for the actual amount of Retail Sales and Use Tax collected in June, 2010, including schedules allocating the actual local Retail Sales and Use Tax collected by locality in June, 2010, and any additional unremitted Retail Sales and Use Tax funds. The revenues in the holding account would be distributed to the localities based on the schedules and any undistributed revenue in the holding account would be deposited into the General Fund.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

In order to provide the current name of Form ST-7, the following technical amendment is suggested:

Page 1, Line 36, After Form ST-7,
Strike: Consumer User
Insert: Business Consumer's Use

11. Other comments:

Background

The 2002 session of the General Assembly, in order to address revenue shortfalls, required dealers who generated taxable sales and purchases of \$1.3 million or greater for the preceding fiscal year to make an accelerated payment in the month of June of 90 percent of the Retail Sales and Use Tax of the business for the prior June. This amount was not reduced by the amount of the dealer discount. TAX mailed preprinted vouchers with the amount due to affected dealers each year. Any amount paid in excess of the actual tax collected by the dealer was taken as a credit by the dealer on the July Retail Sales and Use Tax return due in August. Accelerated sales payments continued to be authorized by the General Assembly until July 2006.

Currently Arkansas, California, Florida, Georgia, Kentucky, Minnesota, Missouri, North Carolina, North Dakota, Oklahoma, and West Virginia have some form of accelerated payment requirement. Seven of the eleven states require large taxpayers to make accelerated payments monthly. Two of the eleven states require large taxpayers to annually make an accelerated payment.

Proposal

Beginning in June, 2010, this bill would require any dealer with taxable sales and purchases of \$50 million or greater in the preceding fiscal year to make a payment of his estimated June, 2010 tax collections by June 30, 2010. Any affected dealer who fails to make a payment of at least 80 percent of his actual June, 2010 collections would be unable to receive a dealer discount when he files his regular June, 2010 return on or before July 20, 2010, and would be subject to a penalty of 6 percent of the underpayment.

The amount of the estimated payment may not be reduced by the dealer discount. Any amount paid in excess of the actual tax collected by the dealer would be taken as a credit by the dealer on subsequent months returns. The estimated payment required would take place each June thereafter.

As the accelerated payment would be required to be at least 80 percent of the actual Retail Sales and Use Tax collected in the current month by the dealer, TAX would be unable to provide preprinted vouchers to the affected dealers, as TAX did under the previous Accelerated Sales Tax program. Instead, TAX would notify the affected dealers who would then determine the payment amount.

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

cc : Secretary of Finance

Date: 2/10/2009 AM
DLAS File Name: SB987FE161