

DEPARTMENT OF TAXATION

2011 Fiscal Impact Statement

1. **Patron** R. Edward Houck

2. **Bill Number** SB 1271

3. **Committee** Senate Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Retail Sales and Use Tax; Authorizes Auditor of Public Accounts to Review Local Retail Sales and Use Tax Collection and Distribution

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would require that, as part of his annual audit of TAX, the Auditor of Public Accounts must perform a review of the collection and distribution of the Retail Sales and Use Tax, with a focus on local retail sales and use taxes, and must subsequently issue a report to the Chairmen of the House Committee on Appropriations, the House Committee on Finance, and the Senate Committee on Finance.

Under current law, the Auditor of Public Accounts is required to audit all the accounts of every state department, officer, board, commission, institution, or other agency handling any state funds.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No.

7. **No Fiscal Impact.** (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

TAX considers implementation of this bill as "routine" and does not require additional funding. The Auditor of Public Accounts plans to include the work in its regular audit of TAX and it would have no fiscal impact on the APA.

Revenue Impact

This bill would have no impact on state or local revenues.

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

TAX
Auditor of Public Accounts

10. Technical amendment necessary: Yes.

The following technical amendments are suggested:

Page 1, Line 17, After to the
Insert: Tax Commissioner, the

Page 1, Line 43, After to the
Insert: Tax Commissioner, the

11. Other comments:

Generally

Under current law, the Auditor of Public Accounts is required to audit all the accounts of every state department, officer, board, commission, institution, or other agency handling any state funds. The law requires that the Auditor prepare a summary of the results of all of the audits and other oversight responsibilities performed for the most recently ended fiscal year by November 1, and must present the summary to the Senate Finance, House Appropriations and House Finance Committees on the day the Governor presents to the General Assembly the Executive Budget.

Local Retail Sales and Use Tax

In addition to the state Retail Sales and Use Tax imposed at a rate of 4%, all Virginia cities and counties impose a 1% local Retail Sales and Use Tax. The law requires that revenue from the local tax be distributed to the locality in which the sale was made, while revenue obtained from out-of-state dealers collecting the local use tax is distributed to the locality to which the tangible personal property is destined.

On average, TAX processes 78,916 retail sales tax returns and 13,364 out-of-state dealer returns per month. The vast majority of returns are processed accurately with the local sales tax portion correctly reported and distributed; however, sometimes, errors can and do occur, which may result in the distribution being unassigned or distributed to the incorrect locality. Pursuant to legislative mandate, TAX issued a report in September, 2009 (HD 191, 2009) detailing the efforts TAX has taken and continues to take to address this issue.

Proposal

This bill would require that, as part of his annual audit of TAX, the Auditor of Public Accounts perform a review of the collection and distribution of the Retail Sales and Use Tax, focusing on the collection and distribution of local retail sales and use taxes.

Under the terms of the bill, for fiscal years ending June 30, 2011 and June 30, 2012, the Auditor would be required to review:

- TAX's policies and procedures for the collection and distribution of the local retail sales and use tax;
- The procedures employed by local officials to identify entities that have not paid retail sales and use taxes, and how TAX could coordinate, assist, or work with local officials to collect and accurately distribute these collections;
- TAX's coordination and work with local officials to determine what information both groups can share and how they coordinate activities to enhance the collections and accuracy of distribution of local retail sales and use taxes.

The Auditor would also be required to evaluate the audits performed by TAX on retail sales and use tax collection and distribution, evaluate TAX's procedures for identifying the proper county or city for distributions of local retail sales and use taxes, and make recommendations to improve TAX's and the local officials' policies and procedures for the collection and distribution of retail sales and use taxes.

Finally, the bill would require that, beginning with the fiscal year ending June 30, 2013 and thereafter, the Auditor would need to recommend annual benchmarks for evaluating the effectiveness of TAX's local retail sales and use tax collection and distribution process to the Chairmen of the House Committee on Appropriations, the House Committee on Finance, and the Senate Committee on Finance.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 1/18/2011 KP
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