

DEPARTMENT OF TAXATION

2012 Fiscal Impact Statement

1. **Patron** John S. Edwards

2. **Bill Number** SB 614

3. **Committee** Passed by House and Senate

House of Origin:

☐ Introduced

☐ Substitute

☐ Engrossed

4. **Title** Retail Sale and Use Tax; Correction of 1%
Local Sales Tax Payments to Localities

Second House:

☐ In Committee

☐ Substitute

☒ Enrolled

5. **Summary/Purpose:**

This bill would require that upon discovery of an error in the distribution of local sales tax revenues to cities and counties, the Department of Taxation must adjust underpayments to correct any errors made in the distribution of the one percent tax in the next month's payment to the locality.

Under current law, in order to correct errors in the initial distribution of the local sales tax, one-sixth of the total adjustment is included in the payments to the locality for each of the next six months.

The effective date of this bill is not specified.

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

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

8. **Fiscal implications:**

Administrative Costs

The Department considers implementation of this bill as "routine" and does not require additional funding.

Revenue Impact

This bill would have no impact on state revenues. This bill would benefit localities that experience erroneous underpayments of local sales tax revenues, in that the localities would receive the correct distribution within a month, rather than a six-month period. Localities that received the overpayment would have to absorb the payment in one month, rather than over six months.

9. Specific agency or political subdivisions affected:

All localities
Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

The state Retail Sales and Use Tax is imposed at a rate of 4%. In addition to the state tax, all Virginia cities and counties impose a 1% local Retail Sales and Use Tax, which is distributed monthly to counties and cities based on the point of sale. Point of sale is determined through information filed with the dealer's Retail Sales and Use Tax Return. 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. In order to ensure that the proper localities receive the benefit of the tax, in-state retailers must maintain accurate and current records of their retail locations.

The Department deposits local sales and use tax revenues into the state treasury and, based on the point of sale and destination information filed with dealers' returns, certifies to the Comptroller the proper amount to be credited to each county or city. The Treasurer of Virginia distributes the appropriate amount to each county or city monthly.

Errors in the distribution of local sales and use tax revenues may occur when dealers register and provide an incorrect locality for the location of the business making taxable sales. Errors may be detected during the performance of a department audit or from information obtained by district field representatives in resolving delinquent sales tax accounts. In addition, Commissioners of the Revenue may discover an error when tracking their localities' monthly distributions of sales tax revenues. If errors are made in the distribution to localities, they must be corrected through an adjustment in the distribution to the affected localities for the next month or subsequent months.

Under current law, in order to correct an underpayment, one-sixth of the total adjustment is included in the payments for each of the next six months. The Virginia General Assembly enacted this legislation in 1997 to give the locality that received the erroneous overpayment time to absorb the impact of the transfer, particularly in light of the potential for misallocations to date back three years.

Auditor of Public Accounts Report

The 2011 Virginia General Assembly enacted legislation requiring the Auditor of Public Accounts (APA) to annually review the Department's procedures for collecting and distributing the local retail sales and use taxes and to provide a report of its findings to the Legislature. The legislation also requires the Auditor to recommend annual benchmarks for evaluating the effectiveness of the Department'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, the Senate Committee on Finance,

and the Tax Commissioner. Pursuant to this legislation, the APA issued a report in November, 2011 concluding that sales tax distribution errors do not impact all localities equally; thus, recommendations for improvement must undergo an evaluation of the cost effectiveness of the change.

Proposal

This bill would replace the 1997 legislation by requiring that upon discovery of an error in the distribution of local sales tax revenues to cities and counties, the Department must adjust underpayments to correct any errors made in the distribution of the one percent tax in the next month's payment to the locality.

The effective date of this bill is not specified.

cc : Secretary of Finance
Date: 2/24/2012 KP
DLAS File Name: SB614FER161