



**JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION**  
**Fiscal Impact Review**  
**2012 Session**

**Bill Number:** HB 207

**Review Requested By:** Senator Stosch

**JLARC Staff Fiscal Estimates**

JLARC staff estimate that HB 207 could have a fiscal impact on the State that ranges between \$1,200,000 and \$14,500,000 in fiscal year (FY) 2014 and again in FY 2015, provided that several assumptions hold true. The fiscal impact of HB 207 could be higher or lower depending on changes in the market prices of gold, silver, and platinum, and on individual demand for these commodities. The bill contains an expiration date of June 30, 2015.

HB 207 would provide a sales tax exemption for retail purchases of gold, silver, or platinum bullion, or any combination thereof, that total \$1,000 or more. These purchases are currently subject to a five percent Retail Sales and Use Tax. The proposed exemption would primarily benefit those investing in precious metals, and would not apply to purchases of jewelry or works of art.

Three separate methods were used to develop a range of estimates for the fiscal impact of HB 207 to help mitigate data limitations. The range was calculated using (1) adjusted 2007 Economic Census data on wholesale dealer sales of precious metals in Virginia, (2) adjusted U.S. Mint data on national sales of gold, silver, and platinum bullion, and (3) fiscal impact estimates from other states with existing precious metals sales tax exemptions.

The actual fiscal impact of HB 207 could be at the high or low end of the range of estimates, as several assumptions were made regarding precious metal bullion demand, prices, and sales in Virginia. In addition, an assumption was made that trends in the sales of precious metal bullion nationally and in other states also applied in Virginia. If one or more of these assumptions does not hold true, the fiscal impact of HB 207 could be affected.

An explanation of the JLARC staff review is included on the following pages.

**Authorized for Release:**

**Glen S. Tittermary**  
**Director**

**Bill Summary:** HB 207 would provide a sales tax exemption for the purchase of more than \$1,000 of gold, silver, or platinum bullion, or any combination thereof. Language in HB 207 defines bullion as “gold, silver, or platinum...that has gone through a refining process and is in a state or condition such that its value depends on its mass and purity, and not on its form, numismatic value, or other value.” Currently, these transactions are subject to the State’s Retail Sales and Use Tax at five percent of the total sale price of the transaction. The proposed exemption would primarily benefit individuals purchasing gold, silver, or platinum bullion for investment purposes. The exemption would not apply to purchases of jewelry or works of art.

**Discussion:** Stakeholders make several arguments both in favor and against precious metals tax exemptions. According to the Industry Council for Tangible Assets, 30 states currently do not tax precious metal bullion sales. Supporters claim that these exemptions are necessary to keep Virginians from purchasing precious metal bullion from other states, especially those near the Commonwealth (Maryland, Pennsylvania, and South Carolina). Supporters further argue that investing in precious metals is similar to investing in stocks, bonds, and other securities. Because these investments are tax-exempt in Virginia, investing in precious metals could also warrant a tax exemption.

Opponents cite the loss in State revenue as a drawback to precious metals tax exemptions. Other states have reported foregoing significant revenue through these tax exemptions, some up to several millions of dollars per year. As a result, multiple states, including Maryland and Pennsylvania, have attempted to repeal their precious metals tax exemptions in recent years.

**Fiscal Implications:** The fiscal impact of the proposed legislation would depend on the demand for gold, silver, and platinum bullion, the price of these precious metals, and the number of retail sales transactions that exceed \$1,000 in Virginia each year. The demand for and price of precious metal bullion have increased significantly during the past five years, but it is unclear whether or to what extent this growth might continue in future years. Further, data on the number of retail sales that exceed \$1,000 is not publicly available. Therefore, several important assumptions had to be made to overcome these data limitations. To reduce the risk of using assumptions that might distort a single estimate, JLARC staff used different approaches to develop three estimates which, together, suggest a fiscal impact ranging from approximately \$1.2 million to \$14.5 million in both fiscal years 2014 and 2015.

#### **(1) Estimate based on 2007 sales of Virginia wholesalers of precious metals**

The adjusted 2007 Economic Census data on wholesale dealer sales of precious metals was used to estimate the fiscal impact of HB 207. The following simplifying assumptions were made:

- (i) the dollar amount of wholesale dealer sales of gold, silver, and platinum bullion recorded in 2007 will be similar to the number of current and future sales;
- (ii) 100 percent of wholesale dealer sales of gold, silver, and platinum bullion in Virginia are made available for individual retail purchase, either directly or through retail dealers;
- (iii) the distribution of gold, silver, and platinum wholesale dealer sales recorded in the 2007 Economic Census is similar to the distribution of gold, silver, and platinum American eagle bullion sales made by the U.S. Mint in 2007; and
- (iv) sales of gold, silver, and platinum bullion in 2012 will remain constant through fiscal years 2014 and 2015.

According to Economic Census data, precious metal wholesale dealers in Virginia reported approximately \$10 million in sales of gold, silver, and platinum in 2007. Assuming that the number of

wholesale dealer sales has remained relatively constant since 2007, sales in 2012 would total approximately \$23.9 million once adjusted for fluctuations in the price of gold, silver, and platinum since 2007. If 100 percent of these sales were made available for individual retail purchase, either directly or through retail dealers, the State would generate approximately \$1.2 million in sales tax revenue from these items. Exempting these purchases from the sales tax could therefore reduce General Fund revenues by \$1.2 million in FY 2014 and again in 2015.

Economic Census data was used by the Virginia Department of Taxation to provide a rough sense of the potential fiscal impact of HB 207 and appears to be the only data source that captures Virginia-specific sales of precious metals. However, using the adjusted 2007 Economic Census data to generate a fiscal impact estimate has several limitations. First, the estimate may be deflated because national trends suggest that individual purchases of precious metal bullion may have increased significantly in Virginia since 2007. Secondly, the estimate could be inflated because it is unlikely that all wholesale dealer sales are made available for individual retail purchase in Virginia. Wholesale dealers could sell gold, silver, and platinum bullion to other wholesale dealers tax-free, or to consumers outside of the State, which would not add to the State's potential fiscal impact. Third, U.S. Mint data on national sales of gold, silver, and platinum in 2007 may not reflect the current distribution of these sales in Virginia. The fiscal impact could be over- or underestimated if either of the higher priced precious metals (gold and platinum) comprises a different share of total sales in Virginia than U.S. Mint data suggest. Finally, the estimate could be inflated because not all sales of gold, silver, and platinum are likely to exceed \$1,000. In 2012, the market prices for gold, silver, and platinum have been approximately \$1,662, \$31, and \$1,546 per troy ounce, respectively. Some individuals may purchase less than \$1,000 per transaction, which would not qualify for a tax exemption under HB 207.

## **(2) Estimate based on national sales of precious metal bullion recorded by the U.S. Mint**

U.S. Mint data on 2012 American eagle bullion sales in the U.S. were also used to estimate the fiscal impact of HB 207. Data were available on the total amount of gold and silver bullion sold in 2012 (through October). Data on platinum bullion sales were available through 2008, the last year when the U.S. Mint offered it for sale. Due to data limitations, the following simplifying assumptions were made:

- (i) national gold, silver, and platinum sale trends are similar to trends in Virginia;
- (ii) state population is an appropriate proxy for the distribution of national bullion sales across states;
- (iii) the amount of gold and silver bullion that will be sold in the U.S. in November and December of 2012 is similar to the proportion of 2011 sales made in November and December of 2011;
- (iv) the amount of platinum bullion sold in the U.S. in 2008 is similar to current levels; and
- (v) sales of gold, silver, and platinum bullion in 2012 will remain constant through fiscal years 2014 and 2015.

U.S. Mint data indicate that gold, silver, and platinum bullion sales will total approximately \$2.0 billion in the U.S. in 2012. Given that Virginia's population is roughly three percent of the U.S. population, this would equate to nearly \$52 million in precious metal bullion sales in Virginia. Exempting these purchases from the sales tax could therefore reduce General Fund revenues by \$2.6 million in FY 2014 and 2015.

A fiscal impact estimate calculated using 2012 U.S. Mint data could be over- or understated depending on several factors. The demand for precious metal bullion in Virginia may not be similar

to national demand for these goods, and Virginia's share of the U.S. population may not be a suitable proxy for its demand for precious metal bullion. Either case over- or underestimates total sales in the Commonwealth. In addition, the proportion of total 2011 gold and silver bullion sales made in November and December of 2011 may be higher or lower than the sales that will occur during November and December of 2012. Finally, platinum sales in 2008 may have been different than platinum sales in 2012. Historic data show that the price of platinum has dropped substantially since its peak in 2008, suggesting a potential impact on demand.

**(3) Estimate based on highest reported fiscal impact of sales tax exemptions on precious metals bullion in other states**

As previously noted, 30 other states currently do not collect sales tax on precious metal bullion sales. Of the 30 states, 25 offer precious metals tax exemptions. At least 10 states report the fiscal impact of their precious metals tax exemptions in annual and biennial tax expenditure reports, as shown in the table below. All states for which estimates are reported indicate that precious metals tax exemptions typically have a current or projected fiscal impact below \$14.5 million (Washington's projected fiscal impact for FY 2015), with the exception of New York where gold is traded. This estimate provides a conservative point of reference for the potential fiscal impact of a precious metals tax exemption in Virginia, assuming that the exemption will function in Virginia like in other states.

It is important to note that several of the states with relatively higher fiscal impact estimates, such as Washington and Pennsylvania, do not have a minimum transaction limit like HB 207. States with a minimum transaction limit, such as Maryland and Texas, report lower fiscal impacts of \$2.9 million and \$900,000, respectively. Therefore, an estimated fiscal impact of \$14.5 million for Virginia, whose exemption would include a \$1,000 threshold per HB 207, may be overstated.

<b>Estimated Fiscal Impact of Precious Metal Bullion Sales Tax Exemptions in Other States</b>		
<i>State</i>	<i>Minimum transaction limit</i>	<i>Estimated fiscal impact (millions)</i>
New York	\$1,000	\$402.0*
Washington	0	14.5
Pennsylvania	0	10.5
Michigan	0	5.2
Maryland	1,000	2.9
Illinois	0	2.7
Colorado	0	0.9
Texas	1,000	0.9
Idaho	0	0.6
South Carolina	0	0.08

Note: Fiscal impact estimates are for the most recent year for which data were available.

\*Fiscal impact estimate is higher than in other states because precious metal bullion is traded in New York.

**Budget Amendment Necessary:** Yes, line 33 of the Budget Bill will need to be adjusted to reflect a reduced official revenue estimate.

**Agencies Affected:** Virginia Department of Taxation.

**Date Released, Prepared By:** 10/31/12 (revised 12/5/12), Lauren Axelle.