

# DEPARTMENT OF TAXATION

## 2016 Fiscal Impact Statement

1. **Patron** Peter F. Farrell

3. **Committee** House Finance

4. **Title** Retail Sales and Use Tax; Parking Charges  
in Connection with Accommodations

2. **Bill Number** HB 1187

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

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

This bill would amend the Retail Sales and Use Tax definition of “sales price” to exclude separately stated parking charges in connection with charges for accommodations or other spaces to transients. As a result, the Retail Sales and Use Tax would not apply to these charges. This exclusion would not apply if the parking space is an essential part of the accommodation occupied.

Under current law, the Retail Sales and Use Tax applies to the sale or charges for rooms, lodgings, or accommodations furnished to transients for less than 90 continuous days by hotels, motels, inns, tourist camps, tourist cabins, camping grounds, clubs, and other places that regularly furnish rooms, lodging, space or accommodations to transients for a consideration. Parking charges and other additional charges made in connection with the purchase of the accommodation are deemed to be a part of the charge for the room, and are subject to the tax, whether or not separately stated on the invoice.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** Yes.

ITEM(S): Page 1, Revenue Estimates

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

### 8. **Fiscal implications:**

#### Administrative Costs Impact

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

#### Revenue Impact

The proposed exemption in this bill would result in a state and local revenue loss totaling \$6.2 million in Fiscal Year 2017, \$7.1 million in Fiscal Year 2018, \$7.4 million in Fiscal

Year 2019, and \$7.8 million in Fiscal Year 2020. It is estimated that in Fiscal Year 2014, hotel sales in Virginia generated approximately \$4.27 billion in overall revenues. Parking revenues are an estimated 2.5 percent of overall revenues, or \$107 million. The estimates are provided in the table below:

Effective July 1, 2016  
(all figures in dollars)

<b><u>Fund</u></b>	<b><u>FY 2017</u></b>	<b><u>FY 2018</u></b>	<b><u>FY 2019</u></b>	<b><u>FY 2020</u></b>
State Sales and Use Tax (5.3%)	\$ 5,818,000	\$ 6,629,000	\$ 6,931,000	\$ 7,246,000
GF-Unrestricted	2,496,000	2,844,000	2,973,000	3,108,000
GF-Restricted	1,229,000	1,400,000	1,464,000	1,530,000
Transportation*	881,000	1,004,000	1,050,000	1,098,000
Local Option	1,102,000	1,255,000	1,313,000	1,372,000
HMOF (GF transfer)	110,000	126,000	131,000	137,000
Regional Trans. Funds (0.7%)	\$ 408,000	\$ 465,000	\$ 486,000	\$ 508,000
Hampton Roads (TPO)	143,000	163,000	171,000	178,000
Northern Virginia (NVTA)	264,000	301,000	315,000	329,000
<b>Total Sales and Use Tax</b>	<b>\$ 6,226,000</b>	<b>\$ 7,094,000</b>	<b>\$ 7,417,000</b>	<b>\$ 7,754,000</b>

\*Includes 0.5% TTF, 0.175% HMOF, 0.050% IPROCF, and 0.075% Mass Transit Fund.

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

Department of Taxation

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

## **11. Other comments:**

### **Background**

The Retail Sales and Use Tax is imposed on the gross proceeds derived from the sale or charges for rooms, lodging or accommodations furnished to transients. "Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of tangible personal property or for furnishing services, computed with the same deductions as for sales price. Current law defines sales price as "the total amount for which tangible personal property or services are sold, including any services that are a part of the sale.

Based on this statute, the Department of Taxation has long held that any additional charges made in connection with the rental of a room or other lodging or accommodations are deemed to be a part of the charge for the room and are subject to the tax, even if the charges are separately stated on the invoice. This includes additional parking charges, charges for movies, charges for local telephone calls, and similar service charges imposed when a customer purchases hotel accommodations.

When an accommodation provider provides services that are not in connection with the rental of a room, however, the services are not subject to the Retail Sales and Use Tax. Thus, where a hotel offers parking services to hotel guests as well as the general public, the charges for parking only are not subject to the Retail Sales and Use Tax.

### Camping Accommodations

The Retail Sales and Use Tax applies to the sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for fewer than 90 continuous days by any tourist camp, tourist cabin, camping grounds, club, or other place in which rooms, lodging space or accommodations are regularly furnished to transients for a consideration. The tax applies to camping accommodations even when the accommodations consist only of the campsite, and no additional accommodations, such as buildings, rooms, trailers, etc., are provided.

### Proposal

This bill would amend the Retail Sales and Use Tax definition of “sales price” to exclude separately stated parking charges in connection with charges for accommodations or other spaces to transients. As a result, the Retail Sales and Use Tax would not apply to such separately stated parking charges. This exclusion from the sales and use tax would not apply if the parking space is an essential part of the accommodation occupied. For example, where a transient rents a campsite on which to park a camper for fewer than 90 days, the charges for the space that the camping vehicle occupies would remain subject to the Retail Sales and Use Tax.

The effective date of this bill is not specified.

### Similar Legislation

**House Bill 544** would require online travel companies and other third party intermediaries that facilitate the sale of accommodations and act as the merchant of record to collect and remit sales and use tax and transient occupancy taxes on the total retail price it charges customers.

cc : Secretary of Finance

Date: 1/29/2016 KP  
DLAS File Name: HB1187F161