DEPARTMENT OF TAXATION
2018 Fiscal Impact Statement

1. Patron Christopher T. Head

2. Bill Number HB 1339

House of Origin:
X **Introduced**
_____ **Substitute**
_____ **Engrossed**

3. Committee House Finance

4. Title Retail Sales and Use Tax; Accelerated Sales Tax Payments Prohibition

Second House:
_____ **In Committee**
_____ **Substitute**
_____ **Enrolled**

5. Summary/Purpose:

This bill would add conditions to the requirement that certain Retail Sales and Use Tax dealers ("dealers") remit a sales tax payment based on an accelerated schedule. The bill would require that 1) if the accelerated payment applies to dealers with taxable sales of $15 million or less, such threshold would not be reduced by more than 10 percent for the immediately following year; 2) the Department of Taxation ("the Department") provide notice at least nine months in advance to those dealers that would be required to make an accelerated payment; 3) any dealer would not be assessed a penalty or interest for late payment of the accelerated payment if such dealer was not required to pay an accelerated payment in the immediately preceding calendar year but is required to make such payment by June 30 of the current calendar year due to a reduced threshold; and 4) the Department provide an online application that could be submitted electronically by a dealer to apply for a hardship waiver related to an accelerated payment.

The bill would also eliminate any accelerated payments after June 30, 2020.

Under current law, dealers with annual sales over the threshold set in the Appropriations Act must make a payment for June sales tax that is equal to 90 percent of their liability for the previous June. This payment must be made on or before the 30th day of June if by electronic fund transfer; otherwise it is due on or before the 25th day of June.

The introduced Executive Budget for the 2018-2020 biennium currently applies an AST threshold of $4 million in Fiscal Year 2019 and Fiscal Year 2020.

The effective date of this bill is not specified.

6. Budget amendment necessary: No

7. Fiscal Impact Estimates are: Preliminary. (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 eliminate the accelerated collection of sales tax payments from retail merchants and other dealers who collect and return sales and use tax payments on and after July 1, 2020. Accordingly, the proposed legislation would have a negative revenue impact of $199.7 million in Fiscal Year 2021. However, this bill would have no impact unless the accelerated filing requirement is removed from the budget bill for the 2020-2022 biennium.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No

11. Other comments:

Background

Retail Sales and Use Tax is imposed on all sales of tangible personal property and selected services unless a specific exemption applies. The tax is collected from consumers by Retail Sales and Use Tax dealers. All sums collected are held in trust for the Commonwealth. Returns for the tax must be filed by dealers on or before the 20th of the month following the month the tax was collected.

The Accelerated Sales Tax ("AST") program is designed to bring sales tax revenues into the current fiscal year that would otherwise be received and recognized in the next fiscal year by requiring certain dealers to file their June sales tax payment according to an accelerated schedule. This allows the revenues to be available for appropriation in the current fiscal year.

The current AST program was implemented in 2010. Under AST, dealers with annual sales over the statutory threshold must make a payment for June sales tax that is equal to 90 percent of their liability for the previous June. This payment must be made on or before the 30th day of June, if by electronic fund transfer; otherwise it is due on or before the 25th day of June. Dealers are then entitled to a credit equal to the AST remittance on their June sales tax return filed in July.

Payments not received by the due date are assessed a penalty of six percent of the amount of tax underpayment.

The Department may waive the AST requirement or allow dealers to pay a lesser amount upon a finding that the accelerated payment requirement would cause an undue hardship. Circumstances that may demonstrate undue hardship include: sale or closing of a significant part of business; substantial decline in sales since the previous June; a major change in the dealer's business model; or an out-of-state dealer who no longer makes sales in Virginia.

Accelerated Sales Tax Threshold

The Appropriation Act for the 2016-2018 Biennium, enacted during the 2017 General Assembly session, is scheduled to increase the threshold for the accelerated sales tax payment to $4 million for the June 2018 payment. The introduced Executive Budget for the 2018-2020 biennium currently applies an AST threshold of $4 million in Fiscal Year 2019 and Fiscal Year 2020. The following chart lists the AST thresholds for prior years:

Payment in June of	Threshold	Enacting Legislation
2010	$1 million	HB 29 (2010 *Acts of Assembly*, Ch. 872) HB 30 (2010 *Acts of Assembly*, Ch. 874)
2011	$5.4 million	HB 1500 (2011 *Acts of Assembly*, Ch. 890)
2012	$26 million	HB 1300 (2012 Sp. Session I*, Acts of Assembly*, Ch. 2)
2013	$26 million	HB 1300 (2012 Sp. Session I *Acts of Assembly*, Ch. 2)
2014	$48.5 million	HB 1500 (2013 *Acts of Assembly*, Ch. 806) HB 5001 (2014 Sp. Session I *Acts of Assembly*, Ch. 1)
2015	$2.5 million	HB 1400 (2015 *Acts of Assembly*, Ch. 665)
2016	$2.5 million	HB 1400 (2015 *Acts of Assembly*, Ch. 665)
2017	$2.5 million	HB1500 (2017 Acts of Assembly, Ch. 836)

The chart below shows the amount of revenue accelerated, as well as the number of AST payments, for 2010 through 2017:

Year	Threshold	Number of AST Payments	Total Amount Accelerated
2010	$1 million	10,667	$279,340,862
2011	$5.4 million	2,837	$242,867,249
2012	$26 million	601	$193,885,235
2013	$26 million	664	$199,573,732
2014	$48.5 million	332	$175,287,579
2015	$2.5 million	5,992	$337,427,092
2016	$2.5 million	6,401	$361,362,398
2017	$2.5 million	6,649	$370,350,743

The introduced Executive Budget for the 2018-2020 biennium currently applies an AST threshold of $4 million in Fiscal Year 2019 and Fiscal Year 2020.

Notification of Accelerated Payment

There is currently no advanced notice requirement for the AST program, however, the Department provides dealers with two notifications in May of the upcoming accelerated June payment. This payment must be made on or before the 30th day of June, if by electronic fund transfer; otherwise it is due on or before the 25th day of June.

Accelerated Sales Tax Payments for Fiscal Year 2018

The accelerated sales tax payment for Fiscal Year 2018 is required of dealers with taxable sales of $4 million or more in Fiscal Year 2017. The payment amount is equal to 90 percent of the previous June's sales. It is due on or before each June 30, 2018 if paying by electronic funds transfer. If payment is made by another method, the payment must be made on or before June 25. Dealers who are required to remit the Retail Sales and Use Tax by electronic funds transfer are also required to remit the accelerated sales tax payment for those accounts by electronic funds transfer.

Other States

Several states have accelerated sales tax or prepayment schedules. The chart below is a representative sample of different approaches taken by states that have programs similar to Virginia's AST program.

State	Filing Frequency	Annual Sales Threshold	Accelerated Payments
Arkansas	Semi-Monthly	$2.4 million	Dealers must remit 80% of the tax for the current month by the 24th of the month
California	Semi-Monthly	$0.2 million	In 8 different months, Dealers must remit 90% of the tax for the current month by the 24th of the month
Florida	Semi-Monthly	$3.0 million	Dealers must remit 60% of the tax for the current month by the 20th of the month
Iowa	Semi-Monthly	$0.9 million	Dealers must remit tax for the first 15 days of the month by the 25th of the month
Michigan	Semi-Monthly	$12 million	Dealers must make a prepayment equal to 75 percent of the previous month's liability by the 20th of the month
Minnesota	June 28th	$3.4 million	Dealers must make an accelerated payment equal to 81.4% of May, June, or average monthly liability by June 28
West Virginia	June 20th	$19 million	Dealers must remit tax for the first half of June by June 20

Proposal

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the previous June. This payment must be made on or before the 30th day of June if by electronic fund transfer; otherwise it is due on or before the 25th day of June.

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The effective date of this bill is not specified.

Similar Legislation

House Bill 746 is identical to this bill.

House Bill 512 would provide that on and after July 1, 2020, no dealer would be subject to the AST requirement.

cc : Secretary of Finance

Date: 1/20/2018 SK
DLAS File Name: HB1339F161