

# DEPARTMENT OF TAXATION

## 2018 Fiscal Impact Statement

1. **Patron** Thomas K. Norment, Jr.

3. **Committee** Senate Finance

4. **Title** Department of Taxation; Reports on Sales and Use Tax Exemptions

2. **Bill Number** SB 299

**House of Origin:**

           **Introduced**

  X   **Substitute**

           **Engrossed**

**Second House:**

           **In Committee**

           **Substitute**

           **Enrolled**

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

The Department of Taxation ("the Department") understands that the patron intends to introduce a substitute bill. This fiscal impact statement addresses the substitute legislation.

This bill would require the Department to make annual reports to the Chairmen of the House Committee on Appropriations and the House and Senate Finance Committees regarding the fiscal impact of sales and use tax exemptions that were enacted to further economic development, financial assistance, or social objectives. The review of the exemptions would be conducted on a rotating basis with no exemption reviewed more than once every five years. The non-profit entity exemption, however, would be reviewed annually and the data center exemption would be reviewed every three years.

Additionally, beginning on July 1, 2018, any taxpayer purchasing computer equipment or enabling software tax-exempt under the datacenter exemption would be required to submit to the Department a detailed list of exempt purchases covering the preceding three-year period. After the initial report of such purchases, the taxpayer would be required to report this information every three years thereafter.

Under current law, the Department is required to study and report annually on the sales and use tax exemption for non-profit entities.

The effective date of this bill is not specified.

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

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

#### 7a. **Expenditure Impact:**

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Positions</b></i>	<i><b>Fund</b></i>
2017-18	\$0	0	GF
2018-19	\$116,250	1	GF
2019-20	\$116,250	1	GF
2020-21	\$116,250	1	GF
2021-22	\$116,250	1	GF
2022-23	\$116,250	1	GF
2023-24	\$116,250	1	GF

**8. Fiscal implications:**

Administrative Costs

The Department estimates this bill would result in annual administrative costs of \$116,250 beginning in Fiscal Year 2019. Such costs include one additional economist in order to conduct the proposed study.

Revenue Impact

This bill will have no impact on state revenues.

**9. Specific agency or political subdivisions affected:** Department of Taxation

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

**11. Other comments:**

Prior Sales and Use Tax Exemptions Studies

The 1989 General Assembly passed legislation that required the Department to study all sales and use tax exemptions on a continuous five-year cycle, studying two categories of exemptions each year. The Department was required to publish the Sales and Use Tax Expenditure Study (the "SUTES Study") and present it to the Chairmen of the House Finance and Senate Finance Committees in December of each year. The goal of the SUTES Study was to provide a more complete picture of the revenue impact and policy issues surrounding each of the exemptions contained in the Retail Sales and Use Tax Act. The study included detailed information on the policy, fiscal, and economic impact of the exemptions as well as the apparent rationale for the exemptions and their legislative history. It was believed that the periodic review of sales and use tax exemptions was necessary in order to strengthen oversight and control over the process by which sales tax exemptions are granted. The Department published its last study in December 1995. The 1996 General Assembly repealed the requirement that the Department conduct the study.

The 2006 General Assembly required the Department to determine the fiscal, economic and policy impact of each sales and use tax exemption set out in *Va. Code* § 58.1-609.10 (the "miscellaneous exemptions") and *Va. Code* § 58.1-609.11 (the "nonprofit exemption"). The Department's findings were to be presented to the Chairmen of the House and Senate Finance Committees no later than December 1 of each year with the first such report due December 1, 2007. Subgroups of the exemptions were to be reviewed in periodic cycles and reports issued on a rotating basis in accordance with a schedule determined by the Tax Commissioner. When such reports were completed for each subgroup of the sales and use tax exemptions, the Department was required to repeat the process beginning with the subgroup of exemptions for which a report was made in 2007. No individual exemption was required to be analyzed more frequently than once every five years.

The 2006 General Assembly required the Department to report on nonprofit organizations with a sales and use tax exemption under *Va. Code* § 58.1-609.11. In addition to the fiscal impact of the exemption, the Department was required to report on the extent to which the person, entity, property, service, or industry is exempt from the retail sales and use tax in other states, particularly states contiguous to Virginia.

The 2012 General Assembly repealed the study requirement for the miscellaneous exemptions and allowed the Department to fulfill the annual non-profit exemption portion of the study mandate by posting its estimate on its website.

### Exemption Classifications

Retail Sales and Use Tax exemptions can be classified as being intended for either structural reasons, to further economic development objectives, to provide financial assistance, or to achieve social objectives.

Structural exemptions serve to exclude items that should not be subject to a tax on the transfer of tangible personal property, such as services, items that are subject to another consumption tax, such as automobiles, aircraft and watercraft, and items that are excluded for administrative reasons, such as occasional sales. Other structural exemptions, such as the resale exemption and the manufacturing exemption, are necessary to avoid a pyramiding of the tax as goods pass through the chain of commerce.

Economic development exemptions, such as the research and development and data-center exemptions, are intended to stimulate economic development within the Commonwealth. Financial assistance and social objectives exemptions, such as the partial exemption for food for home consumption, the residential heating fuels exemption, and the exemptions for prescription and nonprescription drugs are meant to reduce the cost of necessities and to achieve social objectives like affordable access to healthcare.

### Proposal

This bill would require the Department to make annual reports to the Chairmen of the House Committee on Appropriations and the House and Senate Finance Committees regarding the fiscal impact of sales and use tax exemptions that were intended to further economic development objectives, to provide financial assistance, or to achieve social objectives. The bill would require the Department to study the following:

- Port of Virginia and Ancillary Nonprofits Exemption
- Department of the Blind and Vision Impaired and Ancillary Nonprofits Exemption
- Veteran's Center Canteen Sales Exemption
- Soil and Conservation Districts Exemption
- Public Transit Authorities Exemption
- Sales Tax Holiday for EnergyStar and Watersense
- Exemption for Precious Metal Bullion
- Farmer's Markets Exemption
- Contractor Temporary Storage Exemption
- Taxi Parts and Radios Exemption
- Electrostatic Duplicators Exemption
- Virginia Spaceport Users Exemption
- Semiconductor Manufacturers Exemption
- Semiconductor Wafers Exemption
- Railroad Rolling Stock Exemption
- Data Center Exemption
- Manufacturing Materials and Equipment Exemption
- Railroad Common Carriers Exemption
- Ships and Vessels Exemption
- Research & Development Exemption

- Airline Common Carriers Exemption
- Uniform Rental and Laundry Businesses Exemption
- IT Application Modification and Development Services Exemption
- Movie Theatre and Broadcaster Purchases of Media Exemption
- Media Provider Equipment Exemption
- Certain Printed Materials for Out-of-State Distribution Exemption
- Advertising Exemption
- Film, Television, and Audio Production Inputs Exemption
- Donations of Educational Materials Exemption
- Residential Heating Fuels Exemption
- Durable Medical Equipment Exemption
- Dialysis Equipment and Supplies Exemption
- Motor Vehicle Equipment for the Disabled Exemption
- Communications Equipment for the Disabled Exemption
- Nonprescription Drugs Exemption
- Donations of Tangible Goods to Nonprofits Exemption
- Churches Exemption
- Fabrication of Food for Nonprofits or Home Use Exemption
- Out-of-state Nuclear Facility Repair Exemption
- College Textbooks Exemption
- School Lunches Exemption
- Prescription Drugs Exemption
- Prescription Eyewear Exemption
- Prescription Hearing Aids Exemption
- Nonprofit Organizations Exemption
- Food Partial Exemption
- School Supplies and Clothing Sales Tax Holiday
- Hurricane Preparedness Sales Tax Holiday

The review of the exemptions would be conducted on a rotating basis with no exemption reviewed more than once every five years with the exception of the non-profit entity exemption, which would continue to be reported annually and the data center exemption, which would be reported every three years. Additionally, beginning on July 1, 2018, any taxpayer who purchases computer equipment or enabling software tax-exempt under the data-center exemption would be required to submit to the Department a detailed list of exempt purchases covering the preceding three-year period. After the initial report of such purchases, the taxpayer would need to continue to submit reports every three years thereafter.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 2/5/2018 VB  
SB299F161