

# DEPARTMENT OF TAXATION

## 2019 Fiscal Impact Statement

1. **Patron** Tony O. Wilt

3. **Committee** House Finance

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

2. **Bill Number** HB 2442

**House of Origin:**

X **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

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

This bill would eliminate the Accelerated Sales Tax (AST) program effective July 1, 2020. However, this proposal conflicts with § 3-5.06 of the Appropriation Act and, therefore, would have no impact unless the budget language is amended.

Retail Sales and Use Tax dealers are generally required to file a return and remit the tax for each month to the Department of Taxation ("the Department") on or before the twentieth day of the following month. However, since 2010, budget language has generally required certain dealers to make an accelerated sales tax payment for their June Retail Sales and Use Tax. Such payment is equal to 90 percent of the previous June's sales tax liability. It is due on or before June 30 (if paying by electronic funds transfer) or June 25 (if payment is made by another method). For June 2019 payments, the AST requirement applies to dealers with taxable sales of \$4 million or more in Fiscal Year 2018. The Introduced Executive Budget provides for an AST threshold of \$10 million for June 2020 payments.

This bill would be effective July 1, 2020.

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. Assuming the Appropriation Act for the 2021-2022 biennium keeps the

\$10 million threshold from Fiscal Year 2020, the proposed legislation would have a negative General Fund revenue impact of \$191.5 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 2021-2022 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 deposit 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.

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 chart below shows the amount of revenue accelerated, as well as the number of AST payments, for 2010 through 2018:

<b>Year</b>	<b>Threshold</b>	<b>Number of AST Bills</b>	<b>Number of AST Payments</b>	<b>Total Revenue Accelerated</b>
2010	\$1 million	12,206	10,667	\$279,340,862
2011	\$5.4 million	2,935	2,837	\$242,867,249
2012	\$26 million	613	601	\$193,885,235
2013	\$26 million	672	664	\$199,573,732
2014	\$48.5 million	332	332	\$175,287,579
2015	\$2.5 million	6,474	5,992	\$337,427,092
2016	\$2.5 million	6,779	6,401	\$361,362,398
2017	\$2.5 million	7,079	6,649	\$370,350,743
2018	\$4.0 million	4,786	4,476	\$359,474,123

### AST Workgroup

An AST Workgroup was established by Item 272(D) of the 2018 Appropriation Act (House Bill 5002, 2018 Special Session I, Chapter 2). The workgroup was asked to consider alternatives and limitations to the current AST mandate and examine other sales tax-related issues as it deemed appropriate.

The workgroup met three times from during 2018. At each meeting, the Department presented information about the current AST structure, focusing particular attention on notice to dealers and AST hardship waivers. Following each presentation there was a period of discussion among the group about AST related topics. The workgroup submitted its report to the Governor; the Chairmen of the House Appropriations and Senate Finance Committees; and all members of the House Appropriations and Senate Finance Committees on January 8, 2019.

## 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	Accelerated Due Date	Annual Sales Threshold	Accelerated Payments
Alabama	Monthly on 20th	\$750,000	If dealers have average monthly state sales tax of \$2,500 or greater during the preceding calendar year, they must make a monthly accelerated payment
Arkansas	Semi-Monthly	\$2.4 million	Dealers must remit 80% of the tax for the current month by the 24th of the month
Arizona	June 20 <sup>th</sup>	\$1 million	One half of the actual tax liability from the month of May; or the actual tax liability from June 1 through June 15.
California	Semi-Monthly	\$0.2 million	In 8 different months, dealers must remit 90% of the tax for the current month by the 24 <sup>th</sup> of the month
Florida	Semi-Monthly	\$3.0 million	Dealers must remit 60% of the tax for the current month by the 20 <sup>th</sup> of the month
Georgia	Monthly on 20 <sup>th</sup>	\$1.5 million	The amount of prepaid tax is 50% of the dealer's average monthly state tax payments for the last calendar year
Iowa	Semi-Monthly	\$0.9 million	Dealers must remit tax for the first 15 days of the month by the 25th of the month
Kansas	Monthly on 25 <sup>th</sup>	\$615,000	First 15 days liability is due on or before the 25th of that month.
Michigan	Semi-Monthly	\$12 million	Dealers must make a prepayment equal to 75% of the previous month's liability by the 20 <sup>th</sup> of the month
Minnesota	June 28 <sup>th</sup>	\$3.4 million	Dealers must make an accelerated payment equal to 81.4% of May, June, or average monthly liability by June 28
West Va.	June 20 <sup>th</sup>	\$19 million	Dealers must remit tax for the first half of June by June 20

## Accelerated Sales Tax Payments for Fiscal Year 2019

The accelerated sales tax payment for Fiscal Year 2019 is required of dealers with taxable sales of \$4 million or more in Fiscal Year 2018. The payment amount is equal to 90 percent of the previous June's sales. It is due on or before each June 30, 2019 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.

### Proposal

This bill would eliminate the Accelerated Sales Tax (AST) program effective July 1, 2020. However, this proposal conflicts with § 3-5.06 of the Appropriation Act and, therefore, would have no impact unless the budget language is amended.

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This bill would be effective July 1, 2020.

cc : Secretary of Finance

Date: 1/15/2019 SK  
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