

# DEPARTMENT OF TAXATION

## 2019 Fiscal Impact Statement

1. **Patron** Mark J. Peake

2. **Bill Number** SB 1337

3. **Committee** Senate Finance

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

4. **Title** Retail Sales and Use Tax; Collection by  
Remote Sellers and Marketplace Facilitators

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

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

This bill would distribute the state portion of the sales tax revenue from remote sellers and marketplace facilitators who register for the first time after the effective date of any remote seller or marketplace facilitator legislation to the newly created Online Revenue Collection Fund ("ORCF"), with the funds to be used to supplement the local distribution of state sales and use tax. The bill would require the Tax Commissioner to report the amount of funds deposited in the ORCF to the Secretary of Finance as well as the Chairmen of the House committee on Appropriations and the House and Senate committees on Finance. The bill would also require the Tax Commissioner to calculate and report the amount by which the state sales and use tax rate could be reduced and replaced with funds from the ORCF as to make such rate reduction revenue neutral.

Under current law, the state portion of sales and use tax revenue is allocated amongst the General Fund, Education, Transportation Trust Fund, and the Highway Maintenance and Operating Fund.

If enacted during the 2019 Regular Session of the General Assembly, this bill would become effective July 1, 2019.

6. **Budget amendment necessary:** Yes. A budget amendment would be necessary to reduce revenues currently allocated in the Introduced Executive Budget to the General Fund, Education, and the Highway Maintenance and Operating Fund, and to increase revenues available to the Online Revenue Collection Fund.

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

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

#### Administrative Costs

The Department of Taxation ("the Department") considers implementation of this bill to be routine and does not require additional funding.

## Revenue Impact

This bill would reallocate state revenues totaling \$127.6 million in Fiscal Year 2020, \$144 million per year for Fiscal Years 2021 through 2023, and \$148.1 million for Fiscal Years 2024 and 2025. The Introduced Executive Budget assumes that such funds would be distributed to the General Fund, Education, Transportation Trust Fund, and the Highway Maintenance and Operating Fund. This bill would instead dedicate such funds to the Online Revenue Collection Fund.

The distribution assumed in the Introduced Executive Budget is as follows:

### Estimated Revenue Impact - Distribution by Fund

Effective July 1, 2019

(all figures in millions of dollars, except rate)

<u>Fund</u>	<u>Rate</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
State Sales and Use Tax (5.3%)	5.280%	144.9	163.6	163.6	163.6	168.3	168.3
GF - Unrestricted <sup>(1)</sup>	2.015%	55.3	62.4	62.4	62.4	64.2	64.2
GF - Restricted <sup>(2)</sup>	0.990%	27.2	30.7	30.7	30.7	31.6	31.6
Education School Age 1/8% - (GF transfer from Restricted)	0.125%	3.4	3.9	3.9	3.9	4.0	4.0
Education SOQ- 1/4% - (GF transfer from Unrestricted)	0.250%	6.9	7.7	7.7	7.7	8.0	8.0
Transportation <sup>(3)</sup>	0.800%	22.0	24.8	24.8	24.8	25.5	25.5
Local Option	1.000%	27.4	31.0	31.0	31.0	31.9	31.9
HMOF (GF transfer)	0.100%	2.7	3.1	3.1	3.1	3.2	3.2
Regional Trans. Funds (0.7%) <sup>(4)</sup>	0.367%	10.1	11.4	11.4	11.4	11.7	11.7
Hampton Roads (TPO)	0.127%	3.5	3.9	3.9	3.9	4.1	4.1
Northern Virginia (NVTA)	0.240%	6.6	7.4	7.4	7.4	7.7	7.7
Total Sales and Use Tax <sup>(4)</sup>	5.647%	155.0	175.0	175.0	175.0	180.0	180.0

#### Notes:

1) Includes: 2.025% General Fund Unrestricted, -0.01% Dealer Discount.

2) Includes: 1% Education 1% based on school age population, -0.01% Dealer Discount.

3) Includes 0.5% TTF, 0.175% HMOF, 0.050% IPROCF, and 0.075% Mass Transit Fund.

4) The assumed state, local and regional sales and use blended tax rate is 5.65%, after dealer discount.

By contrast, the estimated distribution of sales tax revenues under this bill would be as follows:

### SB 1337 (2019): Estimated Revenue Impact - Distribution by Fund

Effective July 1, 2019

(all figures in millions of dollars, except rate)

<u>Fund</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
State Sales and Use Tax						
Online Revenue Collection Fund	127.6	144.0	144.0	144.0	148.1	148.1
Local Option	27.4	31.0	31.0	31.0	31.9	31.9
Total Sales and Use Tax	155.0	175.0	175.0	175.0	180.0	180.0

## 9. Specific agency or political subdivisions affected:

Department of Taxation

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

**11. Other comments:**

Remote Seller and Marketplace Facilitator Legislation

On June 21, 2018, the U.S. Supreme Court in *South Dakota v. Wayfair*, overturned its 1992 ruling in *Quill v. North Dakota* and held that physical presence is no longer a prerequisite for a state to require a merchant to collect its tax. The Court looked favorably upon the economic nexus standard at issue and as a result, Virginia has seen several pieces of legislation proposed that would require remote sellers and marketplace facilitators to register for the collection of Virginia sales tax on their sales to Virginia customers.

Under current law, the state portion of sales and use tax revenue is allocated:

- 0.9% for transportation
- 1.375% to localities for education
- 2.025% to General Fund without restriction
- 0.7% collected in Northern Virginia and Hampton Roads is returned to those regions for transportation
- Of the 1% collected in the Historic Triangle, 0.5% is returned to the collecting locality, and 0.5% goes to the Historic Triangle Marketing Fund

Proposal

This bill would distribute the state portion of the sales tax revenue from remote sellers and marketplace facilitators who register for the first time after the effective date of any remote seller or marketplace facilitator legislation to the newly created Online Revenue Collection Fund ("ORCF"), with the funds to be used to supplement the local distribution of state sales and use tax. The bill would require the Tax Commissioner to report the amount of funds deposited in the ORCF to the Secretary of Finance as well as the Chairmen of the House committee on Appropriations and the House and Senate committees on Finance. The bill would also require the Tax Commissioner to calculate and report the amount by which the state sales and use tax rate could be reduced and replaced with funds from the ORCF as to make such rate reduction revenue neutral.

If enacted during the 2019 Regular Session of the General Assembly, this bill would become effective July 1, 2019.

Similar Legislation

**House Bills 1722** and **2090** and **Senate Bills 1083, 1294, and 1500** would simplify some of the administrative provisions of the sales tax and would require marketplace facilitators and out-of-state dealers to register for sales tax collection above a \$100,000/200 transaction threshold.

**House Bill 2801** and **Senate Bill 1767** would simplify some of the administrative provisions of the sales tax and would require marketplace facilitators and out-of-state dealers to register for sales tax collection above a \$250,000 gross receipts threshold.

**Senate Bill 1267** would simplify some of the administrative provisions of the sales tax and would require marketplace facilitators and out-of-state dealers to register for sales tax collection above a \$100,000/200 transaction threshold. The bill would also allocate the revenue from remote sellers and facilitators who register after July 1, 2019 to the Transportation Trust Fund.

**Senate Bill 1390** would remove the contingencies regarding federal remote seller legislation and domestic fuels set forth in 2013 House Bill 2313 (*2013 Acts of Assembly*, Chapter 766).

**Senate Bill 1601** would require marketplace facilitators and out-of-state dealers to register for sales tax collection above a \$100,000/200 transaction threshold on sales taking place after July 1, 2019.

cc : Secretary of Finance

Date: 1/21/2019 VB  
DLAS File Name: SB1337F161