

DEPARTMENT OF TAXATION 2020 Fiscal Impact Statement

1. **Patron** John A Cosgrove

3. **Committee** Senate Commerce and Labor

4. **Title** Peer-to-Peer Vehicle Sharing Platforms;
Taxation

2. **Bill Number** SB 749

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 amend this bill. This fiscal impact statement is drafted based on the amended version of this bill. In addition, this fiscal impact statement is limited to the impact on taxes administered by the Department.

This bill would require peer-to-peer vehicle sharing platforms that would qualify as dealers under the marketplace facilitator provisions of the sales tax laws to collect and remit all of the Motor Vehicle Rental Taxes due on peer-to-peer shared vehicle rental transactions. The bill would prohibit the owners of peer-to-peer shared vehicles from collecting and remitting the taxes due on transactions for which the peer-to-peer shared vehicle platform would be required to collect.

Under current law, peer-to-peer vehicle sharing transactions are subject to the Motor Vehicle Rental Tax at the same 10 percent total rate as all other motor vehicles offered for rent in the Commonwealth.

If enacted during the 2020 Regular Session of the General Assembly, this bill would become 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 to be routine and does not require additional funding.

Revenue Impact

As compliance within the peer-to-peer rental industry is extremely low, this bill would result in an unknown positive impact to state and local revenues. The amount of the impact is unknown due to an unavailability of data on the industry.

9. Specific agency or political subdivisions affected:

Department of Taxation
All localities

10. Technical amendment necessary: No.

11. Other comments:

Motor Vehicle Rental Tax

The Motor Vehicle Rental Tax is levied on motor vehicles with a gross vehicle weight rating or gross combined weight rating of 26,000 pounds or less at a rate of four percent of the gross proceeds. An additional motor vehicle rental tax is imposed on the rental of every daily rental vehicle regardless of the weight, except for motorcycles and manufactured homes, at a rate of four percent of the gross proceeds. A two percent rental fee is also levied on the gross proceeds from the rental of daily rental vehicles, except for motorcycles and manufactured homes. Most passenger vehicles that are rented are subject to both the taxes and the fee at a combined rate of ten percent of the gross proceeds.

The revenues from the vehicle rental tax of four percent that is imposed on motor vehicles with a gross vehicle weight rating or gross combined weight rating of 26,000 pounds or less are dedicated to the Rail Enhancement Fund and the Transportation Trust Fund. The revenues from the additional vehicle rental tax imposed on the rental of every motor vehicle at the rate of four percent are distributed quarterly to the city, town, or county where the vehicle was delivered to the rentee. The revenues from the two percent vehicle rental fee are dedicated to pay the debt service on bonds issued for the Statewide Agencies Radio System.

Peer-to-Peer Shared Vehicles

Peer-to-peer shared vehicles are vehicles owned by individuals that are offered for daily rental via vehicle sharing platforms operated through websites or online applications. This type of rental offers an alternative to commercial vehicle rental companies that have traditionally comprised the bulk of the vehicle rental industry. Both peer-to-peer shared vehicles and commercially owned rental vehicles are currently subject to the full ten percent Motor Vehicle Rental Taxes. However, compliance within the peer-to-peer rental industry is extremely low.

Collection of the Motor Vehicle Rental Tax

Motor Vehicle Rental Taxes are currently to be paid by the person renting the vehicle, and collected and remitted by the “rentor” of such vehicles. The rentor under current law is the person engaged in the rental of a motor vehicle for consideration. This is generally the rental car company that owns and rents the car to the customer or, for peer-to-peer rentals, the owner of a peer-to-peer shared vehicle.

Pursuant to 2019 *Acts of Assembly*, Chapters 815 and 816, marketplace facilitators that have sufficient contact with Virginia must collect taxes on the transactions facilitated through their marketplaces. A marketplace facilitator is a person or entity that contracts with marketplace sellers to facilitate, for consideration, the sale of such marketplace seller’s products through a physical or electronic marketplace operated by the facilitator. Marketplace facilitators may establish sufficient contact with Virginia as to require the collection of taxes on their facilitated transactions by facilitating retail sale transactions to Virginia customers generating more than \$100,000 in annual gross revenue or numbering 200 or more separate transactions annually.

As this bill incorporates the current marketplace facilitator standard, a peer-to-peer vehicle sharing marketplace that facilitates retail sale transactions, including peer-to-peer vehicle rentals, to Virginia customers generating more than \$100,000 in annual gross revenue or numbering 200 or more separate transactions annually would have to collect the Motor Vehicle Rental Tax on the transactions it facilitates.

Peer-to-Peer Vehicle Sharing Study

The Department of Motor Vehicles conducted a Peer-to-Peer Vehicle Sharing Study in 2019 to determine the appropriate way to handle registration, insurance, and taxation of the peer-to-peer vehicle sharing industry. The stakeholders that took part in the study discussed the possibility of a different tax regime for peer-to-peer vehicles to account for the different local tax consequences for peer-to-peer vehicles upon which personal property tax is levied as opposed to vehicles that are commercially rented and upon which no personal property tax is due. The stakeholders were unable to reach a consensus on the taxation issue.

Proposal

This bill would require peer-to-peer vehicle sharing platforms that would qualify as dealers under the marketplace facilitator provisions of the sales tax laws to collect and remit all of the Motor Vehicle Rental Taxes due on peer-to-peer shared vehicle rental transactions. The bill would prohibit the owners of peer-to-peer shared vehicles from collecting and remitting the taxes due on transactions for which the peer-to-peer shared vehicle platform would be required to collect.

A “peer-to-peer shared vehicle” would be defined by this bill as a motor vehicle that (i) has been made available for rental by its owner through a peer-to-peer sharing platform and (ii) is either insured under a personal policy of motor vehicle liability insurance or registered as an uninsured motor vehicle.

A “peer-to-peer vehicle sharing platform” would be defined as any online-enabled application, software, website, or system offered or utilized for the primary purpose of renting peer-to-peer shared vehicles and the provision of services incidental to the rental of such vehicles.

This bill would clarify that the tax on peer-to-peer shared vehicles would be collected and remitted by the online platform that facilitated the transaction, provided that such platform meets the minimum requirements to be designated as a dealer pursuant to the Marketplace Facilitator law enacted by 2019 *Acts of Assembly*, Chapters 815 and 816.

If enacted during the 2020 Regular Session of the General Assembly, this bill would become effective July 1, 2020.

Similar Legislation

House Bill 891 is identical to this bill.

House Bill 892 and **Senate Bill 750** contain Motor Vehicle Rental Tax provisions that are identical to this bill.

House Bill 1539 would impose a six percent tax, collectible only by peer-to-peer platforms that qualify as dealers, on peer-to-peer shared vehicles.

Senate Bill 735 would impose a four percent tax, collectible only by peer-to-peer platforms that qualify as dealers, on peer-to-peer shared vehicles.

cc : Secretary of Finance

Date: 1/20/2020 VB
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