

DEPARTMENT OF TAXATION

2007 Fiscal Impact Statement

1. **Patron** William H. Fralin, Jr.

3. **Committee** House Finance

4. **Title** Retail Sales and Use Tax; Directs the Tax Commissioner to Revise Certain Sales and Use Forms

2. **Bill Number** HB 2621

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would direct TAX to revise the Virginia Retail Sales and Use Tax Return (Form ST-9) and the Virginia Retail Sales and Use Tax Worksheet (Form ST-9A) to reduce the confusion among dealers who collect and remit the sales and use tax imposed on prepared food. The bill would require that TAX communicate to the Chairmen of the House Finance Committee and the Senate Committee on Finance any changes that it is making to the forms to carry out this directive by September 1, 2007.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

7. **Budget amendment necessary:** No.

8. **Fiscal implications:**

Administrative Costs

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as "routine," and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not "routine." Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

Revenue Impact

This bill should have no impact on state or local revenues.

9. Specific agency or political subdivisions affected:

TAX

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Current law imposes a 2½% combined state and local sales and use tax rate on “food purchased for home consumption.” “The Food Stamp Act of 1977” (7 U.S.C. § 2012) provides a definition for “food purchased for home consumption.” The definition includes most staple grocery food items and cold prepared foods packaged for home consumption. Specifically excluded from the definition of “food for home consumption” are alcoholic beverages, tobacco, and prepared hot foods sold for immediate consumption on and off the premises. Foods that do not satisfy the definition of “food purchased for home consumption” are subject to the regular 5% combined state and local rate, as are seeds and plants that produce food for human consumption.

Although hot meals purchased for immediate consumption typically do not fall under the category of “food purchased for home consumption,” the law allows an exception for certain hot meals including: meals purchased by the elderly from nonprofit meal delivery services, meals purchased through authorized drug addiction and alcoholic treatment and rehabilitation centers, meals purchased for residents through certain certified nonprofit group living arrangements, meals purchased through shelters for battered women and children, meals purchased for the homeless through authorized nonprofit establishments that feed homeless persons and restaurants authorized to accept food stamps.

Subsequent to the enactment of House Bill 1638 and Senate Bill 708 (2005 Acts of Assembly, c. 521 and 487), which reduced the food tax to its current 2½% rate, TAX made significant efforts to notify taxpayers of the reduction in the food tax rate. For example, TAX issued Tax Bulletin 05-78, which notified taxpayers of the reduced rate in food tax and listed examples in which the reduced rate would apply. In addition, TAX changed its Form ST-9 to account for this difference, and adjusted the tables located on the website to include this information. TAX also described this change under the “What’s New” section its TAX website. In addition, the Governor issued a press release dated June 29, 2005, explaining the reduction in the food tax rate. Finally, a temporary “ticker” was placed on TAX’s website, on which taxpayers could click to receive additional information about the food tax rate reduction.

Proposal

This bill would direct TAX to revise the Virginia Retail Sales and Use Tax Return and the Virginia Retail Sales and Use Tax Worksheet to reduce confusion among dealers who collect and remit the sales and use tax imposed on prepared food.

cc : Secretary of Finance

