

DEPARTMENT OF TAXATION

2009 Fiscal Impact Statement

1. **Patron** C. Todd Gilbert

3. **Committee** House Finance

4. **Title** Retail Sales and Use Tax; Exemption for
Fabrication of Animal Meat

2. **Bill Number** HB 2360

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

TAX understands that the patron plans to introduce a substitute bill. This impact statement addresses the substitute bill.

This bill would provide an exemption from the Retail Sales and Use Tax for the fabrication of animal meat, grains, vegetables, and other foodstuffs when the purchaser i) supplies the foodstuffs and they are consumed by the purchaser or his family, ii) is an organization exempt from taxation under § 501 (c)(3) or (c)(4) of the Internal Revenue Code, or iii) donates the foodstuffs to an organization exempt from taxation under § 501 (c)(3) or (c)(4) of the Internal Revenue Code.

Under current law, the processing of meat, grains, vegetables, and other foodstuffs for a charge is considered fabrication labor and is subject to the Virginia Retail Sales and Use Tax. However, the Retail Sales and Use Tax is not applicable to butchers, slaughterhouses and other agricultural product processors when they process meat or other agricultural products that will be resold. Such transactions qualify for the "sale for resale" exemption.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

7. **Budget amendment necessary:** Yes. (See Line 8.)
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8. **Fiscal implications:**

Administrative Costs

TAX would not incur any costs in the implementation of this bill.

Revenue Impact

As this bill would exempt a small portion of total fabrication labor, the sales tax revenue loss is expected to be minimal. If the fabrication of animal meat, grains, vegetables, and other foodstuffs increased in the future, the revenue loss would also increase.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Background

Under current law, fabrication labor is expressly subject to the Retail Sales and Use Tax. A sale subject to tax includes “the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication.”

TAX’s regulation on fabrication, 23 *Virginia Administrative Code* 10-210-560, provides, in pertinent part, that “[a]n operation which changes the form or state of tangible personal property is fabrication. . . . A person regularly engaged in the fabrication of tangible personal property for sale at retail must collect and pay the tax on the sales price of the property. . . . The tax applies to the charges for the fabrication of tangible personal property for users or consumers who furnish, either directly or indirectly, the materials used in the fabrication work. For example, a tailor who makes an article of wearing apparel from materials furnished by the customer must collect and pay the tax on the charge for making the apparel.” This has been TAX’s consistent policy for the last 40 years.

The Retail Sales and Use Tax is not applicable to butchers, slaughterhouses and other agricultural product processors when they process meat or other agricultural products that will be resold. Such transactions qualify for the “sale for resale” exemption. Furthermore, while a person engaged in agricultural production for market may purchase livestock and livestock products, poultry and poultry products, and farm and agricultural products exempt from the Retail Sales and Use Tax when used or consumed by him and the members of his family, any charges for fabrication labor regarding these products are subject to tax.

Proposal

This bill would provide an exemption from the Retail Sales and Use Tax for the fabrication of animal meat, grains, vegetables, and other foodstuffs when the purchaser i) supplies the foodstuffs and they are consumed by the purchaser or his family, ii) is an organization exempt from taxation under § 501 (c)(3) or (c)(4) of the Internal Revenue Code, or iii) donates the foodstuffs to an organization exempt from taxation under § 501 (c)(3) or (c)(4) of the Internal Revenue Code.

The effective date of this bill is not specified.

Similar Legislation

TAX understands that **Senate Bill 813**, **Senate Bill 944**, and **Senate Bill 1132** will be amended to be identical to this bill.

cc : Secretary of Finance

Date: 1/24/2009 AM
DLAS File Name HB2360F161