

DEPARTMENT OF TAXATION

2010 Fiscal Impact Statement

1. **Patron** Jackson H. Miller

3. **Committee** House Finance

4. **Title** Retail Sales and Use Tax; Exempts Gold,
Silver, and Platinum Bullion

2. **Bill Number** HB 683

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide an exemption from the Retail Sales and Use Tax for gold, silver or platinum bullion with a sales price in excess of \$1,000. "Gold, silver, or platinum bullion" would be defined as gold, silver, or platinum, and any combination thereof, that has gone through a refining process and is in a state or condition such that its value depends on its mass and purity and not on its form, numismatic, or other value. "Gold, silver, or platinum bullion" would not include jewelry or works of art. Under the terms of this bill, each piece of gold, silver, or platinum would not have to exceed \$1,000 in cost, provided that the sales price of one entire transaction of such pieces exceeds \$1,000.

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 Impact

As stand alone legislation, TAX considers implementation of this bill as "routine" and does not require additional funding.

Revenue Impact

The tax exemption proposed in this bill would result in a revenue loss, the amount of which is unknown. The number of bullion transactions in excess of \$1,000 that took place in the Commonwealth this year is not known. In 2002, there were thirteen precious metals dealers in the Commonwealth with \$11,313,000 in sales. Assuming all sales were taxable (none of these sales were for resale or inputs to production), the sales tax collections would have totaled \$556,000 after applying the dealer discount. Assuming further that all of these transactions exceeded the \$1,000 threshold, the maximum revenue loss would have been \$556,000 in 2002.

However, in the last six months, the price of gold has increased 21 percent, the price of silver has increased 41.8% and the price of platinum has increased 38.9%. Due to this, the number of dealers and the number and value of precious metals transactions has increased significantly. Quite likely, the revenue impact of this bill would be significantly higher than it would have been in 2002, when gold was selling for \$347.20 per ounce, silver was selling for \$4.67 per ounce and platinum was selling for \$598.00 per ounce. Today, gold sells for \$1,134.18 per ounce, silver sells for \$18.66 per ounce, and platinum sells for \$1,618 per ounce.

9. Specific agency or political subdivisions affected:

TAX

10. Technical amendment necessary: No.

11. Other comments:

Currency Exchange

Exchanges of United States currency and foreign currencies are not subject to Virginia sales tax. The exchange of currencies is not a sale of tangible personal property for sales and use tax purposes.

Use of Gold as Currency

The Gold Reserve Act of 1934 required the Treasurer of the United States to withdraw gold coins and gold bullion from currency circulation in the United States. This remains true to this day. For this reason, gold bullion is no longer a legal currency in this country, but is treated as a commodity that can be bought and sold based on its current market value. The sale of gold bullion is a sale of tangible personal property, not an exchange of currency. As a sale of tangible personal property, the sale is subject to the Retail Sales and Use Tax.

Proposal

This bill would provide an exemption from the Retail Sales and Use Tax for gold, silver or platinum bullion with a sales price in excess of \$1,000. "Gold, silver, or platinum bullion" would be defined as gold, silver, or platinum, and any combination thereof, that has gone through a refining process and is in a state or condition such that its value depends on its mass and purity and not on its form, numismatic, or other value. "Gold, silver, or platinum bullion" would not include jewelry or works of art. Under the terms of this bill, each piece of gold, silver, or platinum would not have to exceed \$1,000 in cost, provided that the sales price of one entire transaction of such pieces exceeds \$1,000. This provision has the potential for abuse, as it could allow purchasers to avoid the tax by aggregating sales.

Historically, exemptions from the Retail Sales and Use Tax have not required that the price of the qualifying item exceed a certain amount in order for the exemption to apply. More often, tax exemptions are granted based on the qualifying item falling below a certain price threshold, to minimize the revenue loss to the General Fund. For example, the annual temporary exemption available each August for clothing and school supplies only applies for clothing priced at \$100 or less, or school supplies, priced at \$20 or less. If this bill were enacted, this would constitute a departure from longstanding tax policy with respect to retail sales and use tax exemptions.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 1/24/2010 KP
DLAS File Name: HB683F161