

DEPARTMENT OF TAXATION

2014 Fiscal Impact Statement

1. **Patron** Ronald A. Villanueva

3. **Committee** House Finance

4. **Title** Retail Sales and Use Tax; Local Meals and Food and Beverage Tax; Exemption for Military Base Sales

2. **Bill Number** HB 483

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide an exemption from the local food and beverage and local meals taxes for sales made to military personnel by private retail establishments located on a United States military base. The bill would also exempt such sales from the Retail Sales and Use Tax.

Under current law, sales made by the United States are exempt from the Retail Sales and Use Tax. Sales made by private concessionaires within a federal area, such as a United States military base, however, are subject to the Retail Sales and Use Tax, as well as county food and beverage taxes and city meals taxes.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** Yes.

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

8. **Fiscal implications:**

Administrative Costs Impact

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

The Department will provide specific administrative costs on any legislation that is not "routine." Additionally, the Department 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, the Department will identify the costs at that time.

Revenue Impact

The Retail Sales and Use Tax exemption proposed in this bill is estimated to reduce state and local revenues by \$706,000 annually. The local food and beverage and meals tax exemptions proposed in this bill could result in an additional \$456,000 in total lost revenues for the applicable localities.

Currently, Virginia has seven large bases and ten Coast Guard installations, with smaller retail operations that are considered to be equal to one “base” for purposes of this estimate. The estimate assumes that each base has a commissary with a privately owned food court that has annual sales volume of \$1 million. In addition, there are three known stand-alone private fast-food restaurants on military bases in Virginia. The estimate assumes that each stand-alone restaurant has annual sales volume of \$1.5 million. The total state and local impact for each such military base is set forth in the following chart:

Estimated Private Restaurant Sales at Military Bases in Virginia						
Base	Total	State Sales and Use Tax	Locality	Local Meals Tax Rate	Local Meals Tax Revenue	Total
Fort A.P. Hill	\$1,000,000	\$52,800	Caroline	4.00%	\$40,000	\$92,800
Fort Lee	\$4,000,000	\$211,200	Prince George	4.00%	\$160,000	\$371,200
Fort Eustis/Langley AFB	\$1,000,000	\$52,800	Newport News	7.50%	\$75,000	\$127,800
Fort Myer	\$1,000,000	\$52,800	Arlington	4.00%	\$40,000	\$92,800
Fort Belvoir	\$1,000,000	\$52,800	Fairfax	0.00%	\$0	\$52,800
Marine Corps Base Quantico	\$2,500,000	\$132,000	Multiple*	2.00%	\$50,000	\$182,000
Yorktown NWS	\$1,000,000	\$52,800	Multiple*	5.15%	\$51,500	\$104,300
Coast Guard(combined)	\$1,000,000	\$52,800	Statewide*	4.00%	\$40,000	\$92,800
Total	\$12,500,000	\$660,000**		3.83%	\$456,500	\$1,116,500

*Estimate prepared using averages for localities with multiple rates, and statewide median for Coast Guard installations.

**The above chart does not include an estimated \$46,000 in annual revenue from the additional 0.7% sales and use tax levied in the cities and counties included in the Northern Virginia Transportation Authority and Hampton Roads Transportation Planning Organization. The total impact, including the 0.7% additional sales tax is \$706,000.

2013 House Bill 2313 commits discretionary General Fund revenue to the Highway Maintenance and Operating Fund (“HMOF”) beginning in Fiscal Year 2014. The commitment increases incrementally by 10% in Fiscal Year 2015 and 2016, and by 5% in Fiscal Year 2017. The commitment percentage remains at the 2017 rate for subsequent years. However, if Congress does not enact legislation granting states remote collection authority by January 1, 2015, the revenue dedicated to the HMOF will not increase after Fiscal Year 2015

The December 2013 Transportation Sales Tax Forecast assumes that Congress will not enact federal remote collection authority legislation prior to the deadline, and that the commitment to the HMOF will remain at the Fiscal Year 2015 rate for subsequent years. The following chart shows the estimated commitment of General Fund revenues to the

HMOF under the current forecast of 2013 House Bill 2313 and this bill assuming that Congress does not grant states authority for remote seller collection:

Scenario #1 - Congress does not grant remote collection authority

	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Estimated Sales	-\$12,500,000	-\$12,500,000	-\$12,500,000	-\$12,500,000	-\$12,500,000	-\$12,500,000
Total Sales and Use Tax at 5.3% Tax Rate	-\$660,000	-\$660,000	-\$660,000	-\$660,000	-\$660,000	-\$660,000
<i>General Fund-Unrestricted</i>	-\$283,000	-\$283,000	-\$283,000	-\$283,000	-\$283,000	-\$283,000
<i>General Fund-Restricted (w/ addtl .125% from GF-U)</i>	-\$139,000	-\$139,000	-\$139,000	-\$139,000	-\$139,000	-\$139,000
<i>Transportation</i>	-\$100,000	-\$100,000	-\$100,000	-\$100,000	-\$100,000	-\$100,000
<i>Local Option</i>	-\$125,000	-\$125,000	-\$125,000	-\$125,000	-\$125,000	-\$125,000
<i>HMOF (GF transfer)²</i>	-\$13,000	-\$13,000	-\$13,000	-\$13,000	-\$13,000	-\$13,000
Additional Local 0.7% Tax Rate						
<i>Hampton Roads Transportation Planning Organization (TPO)</i>	-\$16,000	-\$16,000	-\$16,000	-\$16,000	-\$16,000	-\$16,000
<i>Northern Virginia Transportation Authority (NVTa)</i>	-\$30,000	-\$30,000	-\$30,000	-\$30,000	-\$30,000	-\$30,000
Total Including TPO and NVTa	-\$706,000	-\$706,000	-\$706,000	-\$706,000	-\$706,000	-\$706,000

The following chart shows the estimated commitment of General Fund revenues to the HMOF for this bill assuming that federal remote collection authority legislation is enacted by the deadline:

Scenario #2 - Congress grants remote collection authority

	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Estimated Sales	-\$12,500,000	-\$12,500,000	-\$12,500,000	-\$12,500,000	-\$12,500,000	-\$12,500,000
Total Sales and Use Tax at 5.3% Tax Rate	-\$660,000	-\$660,000	-\$660,000	-\$660,000	-\$660,000	-\$660,000
<i>General Fund-Unrestricted</i>	-\$283,000	-\$277,000	-\$274,000	-\$274,000	-\$274,000	-\$274,000
<i>General Fund-Restricted (w/ addtl .125% from GF-U)</i>	-\$139,000	-\$139,000	-\$139,000	-\$139,000	-\$139,000	-\$139,000
<i>Transportation</i>	-\$100,000	-\$100,000	-\$100,000	-\$100,000	-\$100,000	-\$100,000
<i>Local Option</i>	-\$125,000	-\$125,000	-\$125,000	-\$125,000	-\$125,000	-\$125,000
<i>HMOF (GF transfer)²</i>	-\$13,000	-\$19,000	-\$22,000	-\$22,000	-\$22,000	-\$22,000
Additional Local 0.7% Tax Rate						
<i>Hampton Roads Transportation Planning Organization (TPO)</i>	-\$16,000	-\$16,000	-\$16,000	-\$16,000	-\$16,000	-\$16,000
<i>Northern Virginia Transportation Authority (NVTa)</i>	-\$30,000	-\$30,000	-\$30,000	-\$30,000	-\$30,000	-\$30,000
Total Including TPO and NVTa	-\$706,000	-\$706,000	-\$706,000	-\$706,000	-\$706,000	-\$706,000

9. Specific agency or political subdivisions affected:

Department of Taxation
All localities

10. Technical amendment necessary: No.

11. Other comments:

Generally

The Supremacy Clause of the United States Constitution prohibits states from taxing the federal government without its consent. By extension, the obligation to collect a state or local tax cannot be imposed on the federal government. Sales made by the United States are exempt from state sales taxes. Sales made by private concessionaires within a federal area, such as a United States military base, however, are subject to the Retail Sales and Use Tax, as well as county food and beverage taxes and city meals taxes.

Local Food and Beverage Tax

County Food and Beverages Tax

Every county is authorized to levy a tax on food and beverages sold for human consumption, by a restaurant at a maximum rate of four percent of the amount charged for such food and beverages. The tax must not be levied on food and beverages sold: i) through vending machines; or by: ii) boardinghouses that do not accommodate transients; iii) cafeterias operated by industrial plants for employees; iv) volunteer fire departments and rescue squads, and nonprofit churches and organizations on an occasional basis; v) churches to their members; vi) nonprofit cafeterias in public schools; vii) hospitals, nursing homes, medical clinics, convalescent homes; viii) day care centers; ix) home for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics; and ix) age restricted apartment complexes. The tax also may not be levied on i) discretionary gratuities; ii) mandatory gratuities and service charges that do not exceed 20% of the sales price; and iii) alcoholic beverages sold in factory sealed containers. The tax does apply to prepared foods ready for human consumption sold at grocery stores and convenience stores.

As of 2012, 45 counties imposed the food and beverages tax. With the exception of Dickenson County, every county imposed the tax at the maximum rate.

City Meals Tax

Currently, any city or town having general taxing powers as established by charter may impose a local meals tax through the adoption of an ordinance by the local governing body. The tax does not apply to: 1) discretionary gratuities paid in addition to the sales price of the meal; 2) mandatory gratuities, to the extent they do not exceed 20% of the sales price; 3) food and beverages sold through vending machines; or 4) food and beverages purchased with food coupons or drafts issued through the Virginia Special

Supplemental Food Program for Women, Infants, and Children. Similarly, the tax does not apply when food is sold or provided by: 1) restaurants as employee meals, considered compensation; 2) volunteer fire departments and rescue squads; nonprofit churches or other religious bodies; educational, charitable, fraternal, or benevolent organizations, on an occasional basis as a fundraising activity; 3) churches regularly serving meals for their members; 4) public or private elementary, secondary schools, colleges, and universities, to their students or employees; 5) hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents; 6) day care centers; 7) homes for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics; or 8) age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages.

As of 2012, all Virginia cities and 115 towns impose a meals tax, with the median rate being 6% and 5% respectively.

Proposal

This bill would provide an exemption from the local food and beverage and local meals taxes for sales made to military personnel by private retail establishments located on a United States military base. The bill would also exempt such sales from the Retail Sales and Use Tax.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 1/14/2014 KP
DLAS File Name: HB483F161