

DEPARTMENT OF TAXATION

2018 Fiscal Impact Statement

1. **Patron** Christopher P. Stolle

3. **Committee** House Finance

4. **Title** Retail Sales and Use Tax; Refund of Tax
Paid on Property to Replace or Repair
Business Property Damaged in a Disaster

2. **Bill Number** HB 1104

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would allow businesses to apply to the Department of Taxation ("the Department") for a refund of sales and use taxes paid on items purchased to replace or repair tangible personal property damaged as a result of a disaster for which the Governor makes a declaration of a state of emergency on or after July 1, 2018. The bill would require that the property for which the refund is requested be purchased no later than 180 days after the declaration of the state of emergency.

Under current law, all taxpayers in the Commonwealth may be relieved of the duty to pay local taxes and levies on real property, improvements thereon, and personal property damaged as the result of a disaster for which the Governor makes a declaration of a state of emergency to the extent such disaster losses are uncompensated by insurance or otherwise. There is currently no relief from sales or use taxes paid on property to replace or repair business property damaged as a result of a disaster.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No.

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

8. **Fiscal implications:**

Administrative Costs

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

This bill would have an unknown negative impact on state and local revenues. The magnitude of the loss is unknown because of the unpredictable nature of significant disaster events that may affect the Commonwealth. Based on historical data from the Virginia Department of Emergency Management, in 2012, Hurricane Sandy resulted in damages to property in the Commonwealth, excluding economic losses, totaling approximately \$16.2 million.

9. Specific agency or political subdivisions affected:

Department of Taxation
Localities

10. Technical amendment necessary: No.

11. Other comments:

Disaster-related Local Tax Relief

Current law provides that taxpayers may be relieved of the duty to pay local taxes and levies on real property, improvements thereon, and personal property damaged as the result of a disaster for which the Governor makes a declaration of a state of emergency to the extent such disaster losses are uncompensated by insurance or otherwise. That provision also provides relief from interest and penalties for taxpayers so affected so long as they make payment for their proportional share of the taxes due by July 1 of the year following the year in which the property was taken by the disaster.

Refunds of Sales Tax

Taxpayers are generally required to make refund claims to the dealer who collected the sales tax. The dealer is then permitted to make a claim to the Department for a refund of the sales tax returned to the taxpayer, provided the dealer can show proof of the refunded amount. Only when the dealer is unable or unwilling to issue a refund, or the dealer has gone out of business, or where it would be administratively burdensome for the taxpayer to request a refund directly from the dealer (such as in the case of multiple different dealers owing refunds for a large number of transactions), may the taxpayer make a request for a refund of sales tax paid directly to the Department.

State of Emergency in the Commonwealth

"State of emergency" is defined as the condition declared by the Governor when in his judgment, the threat or actual occurrence of an emergency or a disaster in any part of the Commonwealth is of sufficient severity and magnitude to warrant disaster assistance by the Commonwealth to supplement the efforts and available resources of the several

localities, and relief organizations in preventing or alleviating the damage, loss, hardship, or suffering threatened or caused thereby and is so declared by him.

Proposal

This bill would allow businesses to apply to the Department for a refund of sales and use taxes paid on items purchased to replace or repair tangible personal property damaged as a result of a disaster for which the Governor makes a declaration of a state of emergency on or after July 1, 2018. The bill would require that the property for which the refund is requested be purchased no later than 180 days after the declaration of the state of emergency.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 1/28/2018 VB
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