

DEPARTMENT OF TAXATION

2018 Fiscal Impact Statement

1. **Patron** Christopher K. Peace

3. **Committee** House Finance

4. **Title** Sales and Use Tax Exemptions; Indian Tribes

2. **Bill Number** HB 861

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would exempt from the Retail Sales and Use Tax tangible personal property used or consumed by the Mattaponi, Pamunkey, or Chickahominy Indian tribal government or by the tribal government of any other recognized Indian tribe of the Commonwealth.

The bill would also exempt from the Watercraft Sales and Use Tax any watercraft registered to any member of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or any other recognized Indian tribe of the Commonwealth who is living on the tribal reservation.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No

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

8. **Fiscal implications:**

Administrative Costs

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

Revenue Impact

The revenue impact of the proposed legislation is unknown, but likely minimal. The value of tangible personal property purchased or used by Indian Tribal governments in any given year is unknown. Likewise, the value of the watercraft purchased by tribe members living on the reservation is unknown. The Watercraft Sales and Use Tax on any watercraft is capped at \$2,000.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No

11. Other comments:

Retail Sales and Use Tax

Generally, the Retail Sales and Use Tax is imposed upon the charge for the sale or use of tangible personal property, unless an exemption applies. Virginia law defines “tangible personal property” as personal property that may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses.

Under current Retail Sales and Use Tax law, there are governmental and commodities exemptions that apply to specific governmental entities and transactions.

State law generally treats recognized Indian tribes as governmental entities. Virginia formally recognizes eleven tribes in the Commonwealth; three of those recognized tribes are the Mattaponi, Pamunkey, or Chickahominy.

The Retail Sales and Use Tax regulations (23VAC10-210-750) address sales to members of Indian tribes on their reservations:

The tax does not apply to sales made by Indians to Indians on their reservation. Sales by outsiders to Indians, sales by Indians to outsiders, and all sales made off the reservation are subject to the sales tax. Indians selling to outsiders on the reservation are required to register as dealers and collect the tax from their purchasers.

Currently, however, there is no exemption from Retail Sales and Use Tax for any recognized Indian tribal government.

Watercraft Sales and Use Tax

There is a separate tax upon the sale of every watercraft sold or used in Virginia and on the gross receipts from a lease, charter or other use of any watercraft by a registered dealer in the Commonwealth. The tax is imposed at the rate of two percent and is capped at \$2,000.

Formally recognized tribes are exempt from several taxes, such as the Motor Vehicle Sales and Use tax. Currently, however, there is no exemption from Watercraft Sales and Use Tax for these tribes.

Proposal

This bill would exempt from Retail Sales and Use Tax tangible personal property used or consumed by the Mattaponi, Pamunkey, or Chickahominy Indian tribal government or by the tribal government of any other recognized Indian tribe of the Commonwealth.

The bill would also exempt any watercraft from the Watercraft Sales and Use Tax registered to any member of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or any other recognized Indian tribe of the Commonwealth who is living on the tribal reservation.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 1/18/2018 SK
DLAS File Name: HB861F161