

# DEPARTMENT OF TAXATION

## 2019 Fiscal Impact Statement

1. **Patron** Frank W. Wagner

3. **Committee** Senate Finance

4. **Title** Remote Sales and Use Tax Collection;  
Disposition of Revenues

2. **Bill Number** SB 1390

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would remove the contingencies in 2013 House Bill 2313 (2013 *Acts of Assembly*, Chapter 766) as they pertain to the effects of federal remote collection authority on the retail sales and use tax and the motor fuels tax. Specifically, the bill would repeal the provisions in HB 2313 that would 1) dedicate any sales and use tax revenue collected pursuant to the federal legislation to counties and cities and to the Transportation Trust Fund, with none of the additional remote seller revenue deposited to the general fund, and 2) cause the wholesale tax on gasoline to revert from 5.1 percent to 3.5 percent in the event that federal remote collection authority is enacted. The bill would also repeal language in HB 2313 that would have repealed HB 2313's tax law changes if future revenues generated by federal remote seller legislation were not dedicated to transportation.

If enacted during the 2019 Regular Session of the General Assembly, this bill would become effective July 1, 2019.

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

7. **No Fiscal Impact** (See Line 8.)

### 8. **Fiscal implications:**

#### Administrative Costs

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

#### Revenue Impact

As this bill would repeal contingent provisions of the law that have never taken effect, this bill would have no impact on state revenue.

**9. Specific agency or political subdivisions affected:**

Department of Taxation

**10. Technical amendment necessary: No.**

**11. Other comments:**

2013 House Bill 2313

2013 House Bill 2313 eliminated the 17.5 cents per gallon motor fuels tax and replaced it with 3.5 percent tax on the wholesale price of gasoline and a 6.0 percent tax on the wholesale price of diesel beginning July 1, 2013. Enactment Clause 14 provided that the tax law changes imposed under House Bill 2313 would be repealed if the revenues earmarked for transportation were redirected for non-transportation purposes at any point in the future. Enactment Clause 14 also provided that if federal legislation authorizing remote sales tax collection authority had not been enacted by January 1, 2015, the wholesale tax on gasoline was to increase from 3.5 percent to 5.1 percent. As federal legislation authorizing remote sales tax collection had not been enacted by January 1, 2015, the wholesale tax on gasoline increased to 5.1 percent.

Under Enactment Clause 15, if Congress were to enact legislation granting remote collection authority on or after January 1, 2015, the wholesale tax on gasoline would revert to 3.5 percent.

Proposal

This bill would remove the contingencies in 2013 House Bill 2313 (2013 *Acts of Assembly*, Chapter 766) as they pertain to the effects of federal remote collection authority on the retail sales and use tax and the motor fuels tax. Specifically, the bill would repeal the provisions in HB 2313 that would 1) dedicate any sales and use tax revenue collected pursuant to the federal legislation to counties and cities and to the Transportation Trust Fund, with none of the additional remote seller revenue deposited to the general fund, and 2) cause the wholesale tax on gasoline to revert from 5.1 percent to 3.5 percent in the event that federal remote collection authority is enacted. The bill would also repeal language in HB 2313 that would have repealed HB 2313's tax law changes if future revenues generated by federal remote seller legislation were not dedicated to transportation.

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tax law changes imposed under House Bill 2313 would be repealed if the revenues earmarked for transportation were redirected for non-transportation purposes at any point in the future.

If enacted during the 2019 Regular Session of the General Assembly, this bill would become effective July 1, 2019.

#### Similar Legislation

**House Bills 1722 and 2090 and Senate Bills 1083, 1294, and 1500** would simplify some of the administrative provisions of the sales tax and would require marketplace facilitators and out-of-state dealers to register for sales tax collection above a \$100,000/200 transaction threshold.

**House Bill 2801 and Senate Bill 1767** would simplify some of the administrative provisions of the sales tax and would require marketplace facilitators and out-of-state dealers to register for sales tax collection above a \$250,000 gross receipts threshold.

**Senate Bill 1267** would simplify some of the sales tax administrative provisions and also require marketplace facilitators and out-of-state dealers to register for sales tax collection above a \$100,000/200 transaction threshold. The bill would also distribute the state portion of the sales tax revenue from newly registered dealers for the benefit of transportation.

**Senate Bill 1337** would distribute revenue from remote sellers into an Online Revenue Collection Fund to be used to supplement the local distribution of sales tax.

**Senate Bill 1601** would require marketplace facilitators and out-of-state dealers to register for sales tax collection above a \$100,000/200 transaction threshold on sales taking place after July 1, 2019.

cc : Secretary of Finance

Date: 1/20/2019 VB  
DLAS File Name: SB1390F161