

# DEPARTMENT OF TAXATION

## 2019 Fiscal Impact Statement

1. **Patron** Ryan T. McDougale

3. **Committee** Senate Finance

4. **Title** Retail Sales and Use Tax; Absorption of Tax  
by Dealer

2. **Bill Number** SB 1615

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

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

This bill would allow dealers to absorb payment of all or any part of the Retail Sales and Use Tax otherwise due from the purchaser, consumer, or lessee. The bill would require the dealer to separately state the sales price of an item and the full amount of sales or use tax due on such item at the point of the sale or transaction, even if the dealer intends to absorb the amount of the tax due. The bill would require that dealers remit the full tax amount due in the return covering the date of the transaction where all or any part of the tax was absorbed by the dealer.

Under current law, dealers are generally prohibited, with the exception of the annual Sales Tax Holiday, from absorbing, or advertising to the public that they would absorb, all or any part of the sales or use tax due on a taxable transaction.

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. **Fiscal Impact Estimates are:** Not available. (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

This bill would have no impact on state or local revenues.

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

Department of Taxation

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

**11. Other comments:**

Current law generally prohibits dealers from absorbing, or advertising or holding out to the public that they will absorb, all or any part of the sales or use tax due on a taxable transaction. The only exception to the prohibition is during the annual Sales Tax Holiday that takes place on the first Friday in August and ends at 11:59 PM on the following Sunday. During this three day period, certain qualified items can be purchased exempt from sales tax. In addition, dealers may also elect to absorb the sales tax due on all other items sold during the holiday period, thereby relieving consumers from the obligation to pay sales tax on their purchases entirely. Dealers who elect to absorb the sales tax on non-exempt items are liable for payment of the tax to the Department with their next return in the same amount as the customer would have otherwise paid had the dealer not absorbed the tax.

The combined sales tax holiday applies to certain, school supplies, clothing and footwear products designed to be worn on or about the human body, as well as qualified WaterSense and Energy Star products. Qualified WaterSense and Energy Star products are those having a sales price of \$2,500 or less per product and that are purchased for noncommercial home or personal use. This includes the following products where the item's energy efficiency has been designated by the EPA and the DOE as meeting or exceeding the requirements of the Energy Star program:

- Dishwashers,
- Clothes washers,
- Air conditioners,
- Ceiling fans,
- Light bulbs,
- Dehumidifiers,
- Programmable thermostats, and
- Refrigerators.

Clothing and footwear eligible for exempt purchase during the holiday include new or used articles of clothing or footwear designed to be worn on or about the human body with a selling price of \$100 or less. School supplies with a selling price of \$20 or less per item are also eligible.

Proposal

This bill would allow dealers to absorb payment of all or any part of the Retail Sales and Use Tax otherwise due from the purchaser, consumer, or lessee. The bill would require the dealer to separately state the sales price of an item and the full amount of sales or use tax due on such item at the point of the sale or transaction, even if the dealer intends to

absorb the amount of the tax due. This bill would require that dealers remit the full tax amount due in the return covering the date of the transaction where all or any part of the tax was absorbed by the dealer. The bill would repeal the provision that prohibits dealers from absorbing taxes.

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

cc : Secretary of Finance

Date: 1/18/2019 VB  
DLAS File Name: SB1615F161