

DEPARTMENT OF TAXATION

2024 Fiscal Impact Statement

1. **Patron** L. Louise Lucas

2. **Bill Number** SB 703

3. **Committee** Senate Finance and Appropriations

House of Origin:

X **Introduced**

 Substitute

 Engrossed

4. **Title** General appropriations and revenue in the Commonwealth; digital personal property

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would impose sales tax on the leasing, renting, or furnishing of streaming services and sales of digital personal property beginning July 1, 2024. The provision of streaming services and sales of digital personal property are not currently subject to sales tax.

If enacted during the regular session of the 2024 General Assembly, this bill would become effective July 1, 2024.

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

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

8. **Fiscal implications:**

Administrative Costs

This bill would have no impact on local administrative costs. The Department of Taxation considers implementation of this bill to be routine and does not require additional funding.

Revenue Impact

This bill would have a net overall positive revenue impact of \$145.1 million in Fiscal Year 2025, \$168.4 million in Fiscal Year 2026, \$178.5 million in Fiscal Year 2027, \$188.9 million in Fiscal Year 2028, \$199.5 million in Fiscal Year 2029, and \$210.4 million in Fiscal Year 2030. The table below shows the overall estimated revenue impact of all changes proposed by the legislation (\$ in millions):

	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Digital Downloads	\$48.6	\$57.2	\$61.3	\$65.4	\$69.5	\$73.6
Streaming Services	\$96.5	\$111.2	\$117.2	\$123.5	\$130.0	\$136.8
Total	\$145.1	\$168.4	\$178.5	\$188.9	\$199.5	\$210.4

The table below shows the net impact to the individual funds as follows (\$ in millions):

	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
GF-Unrestricted	\$16.9	\$19.9	\$21.4	\$22.8	\$24.2	\$25.6
GF-Restricted*	\$11.5	\$13.5	\$14.5	\$15.4	\$16.4	\$17.4
Transportation	\$7.6	\$8.9	\$9.5	\$10.2	\$10.8	\$11.4
Local	\$8.4	\$9.9	\$10.6	\$11.3	\$12.0	\$12.7
Other	\$4.3	\$5.0	\$5.4	\$5.7	\$6.1	\$6.4
Total	\$145.1	\$168.4	\$178.5	\$188.9	\$199.5	\$210.4

**Includes transfers (0.25% SOQ and 0.115% K-12 education based on school age population)*

The table below shows the estimated impact of extending RSUT to digital personal property (in \$ millions):

	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
GF-Unrestricted	\$16.9	\$19.9	\$21.4	\$22.8	\$24.2	\$25.6
GF-Restricted*	\$11.5	\$13.5	\$14.5	\$15.4	\$16.4	\$17.4
Transportation	\$7.6	\$8.9	\$9.5	\$10.2	\$10.8	\$11.4
Local	\$8.4	\$9.9	\$10.6	\$11.3	\$12.0	\$12.7
Other	\$4.3	\$5.0	\$5.4	\$5.7	\$6.1	\$6.4
Total	\$48.6	\$57.2	\$61.3	\$65.4	\$69.5	\$73.6

**Includes transfers (0.25% SOQ and 0.115% K-12 education based on school age population)*

The table below shows the estimated impact of extending RSUT to streaming services (in \$ millions):

	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
GF-Unrestricted	\$33.6	\$38.7	\$40.8	\$43.0	\$45.3	\$47.6
GF-Restricted*	\$22.8	\$26.2	\$27.6	\$29.1	\$30.7	\$32.3
Transportation	\$15.0	\$17.3	\$18.2	\$19.2	\$20.2	\$21.3
Local	\$16.7	\$19.2	\$20.3	\$21.3	\$22.5	\$23.6
Other	\$8.4	\$9.7	\$10.3	\$10.8	\$11.4	\$12.0
Total	\$96.5	\$111.2	\$117.2	\$123.5	\$130.0	\$136.8

**Includes transfers (0.25% SOQ and 0.115% K-12 education based on school age population)*

9. Specific agency or political subdivisions affected:

Department of Taxation
All localities

10. Technical amendment necessary: Yes. It is the Department's understanding that the intent of the bill is to tax digital products and streaming services, and to maintain the other sales tax exemptions that exist under current law. Amendments are necessary to preserve the existing exemptions for personal services, services rendered by repairment for which a separate charge is made, and warranty plans issued by insurance companies since the bill does not aim to broadly tax the provision of services.

Page 6, Line 334, after 2.

Strike: Professional

Insert: Personal and professional

Page 6, Line 335, after architectural,

Strike: or

Page 6, Line 335, after services

Insert: , or services rendered by repairmen for which a separate charge is made

Page 6, Line 355, after exemption.

Unstrike: Warranty plans issued by an insurance company, which constitute insurance transactions, are subject to the provisions of subdivision 1 above.

Page 6, Line 356, beginning of line

Strike: 1

Insert: 2

11. Other comments:

Current Law

The Retail Sales and Use Tax is generally imposed on the sale of tangible personal property and services delivered in connection with the sale of tangible personal property. The sale of digital personal property and the provision of streaming services are not currently subject to the tax.

Exempting digital personal property from sales tax can sometimes result in unequal or disparate tax treatment of similar purchases. While the sale of a computer program delivered via a tangible medium like a CD is subject to sales tax, the same program if delivered electronically and without an option to be delivered on a tangible medium, is exempt from sales tax.

Proposal

This bill would impose sales tax on streaming services and sales of digital personal property beginning July 1, 2024. The bill would also remove the existing sales tax exemption for custom software programs and amounts separately charged for labor or services rendered in connection with the modification of pre-written programs. Streaming services and digital personal property would be exempt from the Communications Sales and Use Tax.

The bill would define “digital personal property” as digital products delivered electronically, including software, digital audio and audiovisual products, reading materials, and other data or applications, that the purchaser owns or has the ability to continually access, whether by downloading, streaming, or otherwise accessing the content, without having to pay an additional subscription or usage fee to the seller after paying the initial purchase price.

The bill would define “streaming services” as a method of transmitting or receiving video and audio data over a computer network as a steady, continuous flow, allowing playback to proceed while subsequent data is being received.

The bill would also add an exemption from sales tax for services performed by a person who does not receive more than \$2,500 per year in gross receipts for performance of such services.

If enacted during the regular session of the 2024 General Assembly, this bill would become effective July 1, 2024.

Similar Legislation

House Bill 889 would impose the Retail Sales and Use Tax on digital personal property and certain taxable services, and would impose the Communications Sales and Use Tax on streaming services.

House Bill 1281 would impose the Retail Sales and Use Tax on digital personal property and certain taxable services in, including streaming services, in addition to making other tax policy changes.

House Bill 30, Enactment 7, Item 4-14.00 would impose, sales tax, beginning January 1, 2025, on sales of digital personal property and taxable services, including streaming services, and would allocate the revenue generated from taxing digital personal property and streaming services one-half to the Transportation Partnership Opportunity Fund and one-half to the Interstate 81 Corridor Improvement Fund.

cc : Secretary of Finance

Date: 2/4/2024 VB
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