2012 Session

Budget Bill - HB1300 (Introduced)

Item 3-5.08

§ 3-5.08 ACCELERATED SALES TAX

A. Notwithstanding any other provision of law, in addition to the amounts required under the provisions of §§ 58.1-615 and 58.1-616, any dealer as defined by § 58.1-612 or direct payment permit holder pursuant to § 58.1-624 with taxable sales and purchases of $1,000,000 or greater for the 12-month period beginning July 1, and ending June 30 of the immediately preceding calendar year, shall be required to make a payment equal to 90 percent of the sales and use tax liability for the previous June. Such tax payments shall be made on or before the 30th day of June, if payments are made by electronic fund transfer, as defined in § 58.1-202.1. If payment is made by other than electronic funds transfer, such payment shall be made on or before the 25th day of June. Every dealer or direct payment holder shall be entitled to a credit for the payment under this section on the return for June of the current year due July 20.

B. The Tax Commissioner may develop guidelines implementing the provisions of this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

C. For purposes of this section, taxable sales or purchases shall be computed without regard to the number of certificates of registration held by the dealer. The provisions of this section shall not apply to persons who are required to file only a Form ST-7, Consumer's Use Tax Return.

D. In lieu of the penalties provided in § 58.1-635, except with respect to fraudulent returns, failure to make a timely payment or full payment of the sales and use tax liability as provided in subsection A shall subject the dealer or direct payment permit holder to a penalty of six percent of the amount of tax underpayment that should have been properly paid to the Tax Commissioner. Interest shall accrue as provided in § 58.1-15. The payment required by this section shall become delinquent on the first day following the due date set forth in this section if not paid.

E. Payments made pursuant to this section shall be made in accordance with procedures established by the Tax Commissioner and shall be considered general fund revenue, except with respect to those revenues required to be distributed under the provisions of §§ 58.1-605 and 58.1-606 of the Code of Virginia.

F. That the State Comptroller shall make no distribution of the taxes collected pursuant to this section in accordance with §§ 58.1-605, 58.1-606, 58.1-638, and 58.1-638.1 of the Code of Virginia until the Tax Commissioner makes a written certification to the Comptroller certifying the sales and use tax revenues generated pursuant to this section. The Tax Commissioner shall certify the sales and use tax revenues generated as soon as practicable after the sales and use tax revenues have been paid into the state treasury in any month for the preceding month. If the Governor determines on July 31 of each year, that funds are available to transfer such collections in accordance with §§ 58.1-638 and 58.1-638.1, Code of Virginia, he shall direct the State Comptroller to make such allocation. The Governor will report his determination to the Chairman of the House Appropriations and Senate Finance Committees on August 15 of each year.

G. Beginning with the tax payment that would be remitted on or before June 25, ~~2011~~*2012*, if the payment is made by other than electronic transfer, and by June 30, ~~2011~~*2012*, if payments are made by electronic fund transfer, the

provisions of § 3-5.08 of Chapter 874, 2010 Acts of Assembly, shall apply only to those dealers or permit holders with taxable sales and purchases of ~~$5,400,000~~ *$26,000,000* or greater for the 12-month period beginning July 1 and ending June 30 of the immediately preceding calendar year. It is the intent of the General Assembly that the payment requirement contained herein be phased out beginning in fiscal year 2013~~. The payment amount for June 2013 should be reduced to 85 percent of the sales and purchases for the previous June~~ and the payment amount should continue to be reduced until fully eliminated not later than June 2021.