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Virginia Commissioner of Revenue Enhancements to Revenue and Efficiency

- **Local Registration for all State and Local Taxes (Business One-Stop Shop)**
- **Monitoring of Local Option portion of the State Sales and Use Tax**
- **Meals Tax/Sales Tax Audit Partnership with the Department of Taxation**
- **Registration and Monitoring of Department of Professional Occupational Regulation (DPOR) applicable businesses**

Local Registration for all State and Local Taxes (Business One-Stop Shop)

This concept enables businesses to register for both state and local taxes at the local level.

The advantages of such a system are:

- Efficiency and convenience for the business taxpayer. The overwhelming majority of Virginia businesses are small locally owned enterprises with limited time and resources. Taxpayers would be able to contact one local place for business tax information and to register for all state and local tax obligations;
- Compliance and discovery of underreporting and non-reporting businesses. Local business license rolls can be compared to state sales tax rolls to ensure that all businesses subject to state sales tax and local business licensure are properly registered and reporting at the state and local level;
- Accuracy of data collection. Because sales tax registrations will occur at the local level there will be fewer registration errors, (i.e. businesses registering with the wrong locality code) therefore, ensuring proper distribution of “local option” taxes;
- Revenue enhancement and cost savings. Sales tax revenue to the Commonwealth would be greatly enhanced due to increased compliance. Savings to the Department of Taxation (TAX) would also accrue because there will be fewer data errors when information is gathered locally and therefore, there will be less demand upon TAX employees to correct these errors;

TAX will likely suggest that it already allows for efficient, online registration for business taxes. The problem is that we cannot assist a business to register when they come to their local Commissioner’s office because access to the registration system requires a separate account

setup. A simple adjustment in the registration access could allow us to access the system, register the business and **verify the accuracy of the information while also providing a much higher level of customer service** than what TAX currently provides.

Monitoring of Local Option portion of the State Sales and Use Tax

This concept enables localities to verify the validity of Sales and Use Tax payments to ensure that accurate funds are deposited to the correct locality.

The advantages of such a process are:

- Assurance that funds are accurately allocated to the appropriate locality (in regions where there are cities surrounded by counties, allocation accuracy cannot be guaranteed by TAX, nor does TAX even have a need to be concerned. Localities, on the other hand, must have assurance that the funds receipted are correct. A misallocation of funds by TAX can cause havoc on a locality's budgeting cash flow;
- Savings will be accrued to the State because TAX will not need to maintain its costly third party (zip code accuracy) data bases. Plus there will be fewer TAX employees needed to correct errors;
- This is a significant problem and there is a need for TAX to correct this situation because localities need to be assured that businesses are properly registered with TAX;

TAX will argue that it has invested in third party data base systems to assist localities with the proper allocation of the 1% Sales Tax. While the new system has made much needed improvements, **it still is not as accurate as could be assured by the local Commissioner's office because we are the only ones that have familiarity with our local business community and TAX does not.**

SALES TAX SUGGESTED RECOMMENDATIONS AND SPECIFIC CODE ENHANCEMENTS:

§ 58.1-613. Dealers' certificates of registration.

A. Every person desiring to engage in or conduct business as a dealer in this Commonwealth shall file with the Tax Commissioner, *or the local commissioner of the revenue*, an application for a certificate of registration for each place of business in this Commonwealth.

B. Every application for a certificate of registration shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the Tax Commissioner may require.

C. When the required application has been made the Tax Commissioner shall issue to each applicant a separate certificate of registration for each place of business within this Commonwealth. A certificate of registration is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall be at all times conspicuously displayed at the place for which issued.

D. Whenever any person fails to comply with any provision of this chapter or any rule or regulation relating thereto, the Tax Commissioner, upon hearing after giving such person ten days' notice in writing, specifying the time and place of hearing and requiring him to show cause why his certificate of registration should not be revoked or suspended, may revoke or suspend any one or more of the certificates of registration held by such person. The notice may be personally served or served by registered mail directed to the last known address of such person.

E. Any person who engages in business as a dealer in this Commonwealth without obtaining a certificate of registration, or after a certificate of registration has been suspended or revoked, and each officer of any corporation which so engages in business shall be guilty of a Class 2 misdemeanor. Each day's continuance in business in violation of this section shall constitute a separate offense.

F. If the holder of a certificate of registration ceases to conduct his business at the place specified in his certificate, the certificate shall thereupon expire, and such holder shall inform the Tax Commissioner in writing within thirty days after he has ceased to conduct such business at such place that he has so ceased. If the holder of a certificate of registration desires to change his place of business to another place in this Commonwealth, he shall so inform the Tax Commissioner in writing and his certificate shall be revised accordingly.

G. This section shall also apply to any person who engages in the business of furnishing any of the things or services taxable under this chapter. Moreover, it shall apply to any person who is liable only for the collection of the use tax.

H. At the request of a local commissioner of revenue, the Tax Commissioner shall provide, on a quarterly basis, a listing of new businesses in the locality which obtained a certificate of registration.

(Code 1950, § 58-441.16; 1966, c. 151; 1981, cc. 420, 438; 1984, c. 675; 2001, cc. 343, 362.)

§ 58.1-633. Records.

A. Every dealer required to make a return and pay or collect any tax under this chapter shall keep and preserve suitable records of the sales, leases, or purchases, as the case may be, taxable under

this chapter, and such other books of account as may be necessary to determine the amount of tax due hereunder, and such other pertinent information as may be required by the Tax Commissioner.

B. In order to aid in the administration and enforcement of the provisions of this chapter, all wholesalers and jobbers in this Commonwealth shall keep a record of all sales of tangible personal property, whether such sales be for cash or on terms of credit. Such records shall include the name and address of the purchaser, the number of the certificate of registration issued to the purchaser, the date of the purchase, the article purchased, and the price at which the article is sold to the purchaser. Any wholesaler or jobber failing to keep such records shall be guilty of a Class 1 misdemeanor. Any person who is both a retailer and a wholesaler or jobber and who fails to keep proper records showing wholesale sales and retail sales separately shall pay the tax as a retailer on both classes of his business.

C. For the purpose of enforcing the collection of the tax levied by this chapter, the Tax Commissioner, *or local commissioner of the revenue*, is authorized to examine the books, records, and other documents of all transportation companies, agencies, firms, or persons as defined herein that conduct their business by truck, rail, water, airplane, or otherwise, in order to determine what dealers are importing or otherwise are shipping articles of tangible personal property which are liable for the tax. If such transportation company, agency, firm or person as defined herein refuses to permit such examination of its or his books, records, and other documents by the Tax Commissioner, *or local commissioner of the revenue*, as aforesaid, it or he shall be guilty of a Class 1 misdemeanor. The Tax Commissioner, *or local commissioner of the revenue*, may proceed by petitioning the appropriate circuit court to require the transportation company, agency, firm, or person to show cause as to why such books, records, and other documents should not be examined pursuant to the injunction of the court, and as to why a bond should not be required with proper security in the penalty of not more than \$2,000 conditioned upon compliance with the provisions hereof for a period of not more than 1 year.

(Code 1950, § 58-441.29; 1966, c. 151; 1984, c. 675.)

§ 58.1-634. Period of limitations.

The taxes imposed by this chapter shall be assessed within three years from the date on which such taxes became due and payable. In the case of a false or fraudulent return with intent to evade payment of the taxes imposed by this chapter, or a failure to file a return, the taxes may be assessed, or a proceeding in court for the collection of such taxes may be begun without assessment, at any time within six years from such date. The Tax Commissioner, *or local commissioner of the revenue*, shall not examine any person's records beyond the three-year period of limitations unless he has reasonable evidence of fraud, or reasonable cause to believe that such person was required by law to file a return and failed to do so.

(Code 1950, § 58-441.38; 1966, c. 151; 1980, c. 633; 1983, c. 104; 1984, c. 675.)

Meals Tax/Sales Tax Audit Partnership with the Department of Taxation

This concept requires TAX to accept work papers from the Audit staff of local CORs offices and to use these work papers to make automatic assessments for State Sales and Income Taxes.

The advantages of such a partnership are:

- Local auditors are highly trained and qualified. Upon completion of an audit, assessments are made first at the local level. Once all local taxes are collected, work papers are forwarded to TAX which then assesses for Sales taxes and Income taxes. Thus, TAX collects State taxes with little to no investment of staff resources;
- TAX staff is used more efficiently to audit businesses that cross jurisdictional lines rather than those that are located within only one locality;
- An alternative would be to permit the localities, which have proper audit programs, to bill businesses for the under-reported State Sales and Use tax and remit to the State their percentage share. This would reduce TAX's involvement and, more importantly, free TAX auditors for focus on more pressing matters;
- With respect to State Use tax, another option is to require that, on an annual basis in conjunction with the local filing for tangible personal property, those local businesses also report all additions to equipment. This would then be verified by the locality and added to the locality tax roles. As part of the local review process there would be verification as to the correctness of State Use tax paid to the State. All deficiencies would be billed by the locality and remitted directly to the State. This ensures that there is consistent and accurate reporting at both the State and Local level;
- Both localities and the State benefit from this partnership

TAX will likely suggest that this program cannot be duplicated in each locality because there are not qualified auditors in every locality in Virginia. The fact is that not every locality has auditors **BUT in those localities that do have auditors, they are highly qualified and well trained in audit techniques and the work papers they produce are, in fact, highly reliable.**

MEALS TAX / SALES TAX AUDIT PARTNERSHIP SUGGESTED RECOMMENDATIONS AND SPECIFIC CODE ENHANCEMENTS:

§ 58.1-633. Records.

A. Every dealer required to make a return and pay or collect any tax under this chapter shall keep and preserve suitable records of the sales, leases, or purchases, as the case may be, taxable under this chapter, and such other books of account as may be necessary to determine the amount of tax due hereunder, and such other pertinent information as may be required by the Tax Commissioner.

B. In order to aid in the administration and enforcement of the provisions of this chapter, all wholesalers and jobbers in this Commonwealth shall keep a record of all sales of tangible personal property, whether such sales be for cash or on terms of credit. Such records shall include the name and address of the purchaser, the number of the certificate of registration issued to the purchaser, the date of the purchase, the article purchased, and the price at which the article is sold to the purchaser. Any wholesaler or jobber failing to keep such records shall be guilty of a Class 1 misdemeanor. Any person who is both a retailer and a wholesaler or jobber and who fails to keep proper records showing wholesale sales and retail sales separately shall pay the tax as a retailer on both classes of his business.

C. For the purpose of enforcing the collection of the tax levied by this chapter, the Tax Commissioner, *or local commissioner of the revenue*, is authorized to examine the books, records, and other documents of all transportation companies, agencies, firms, or persons as defined herein that conduct their business by truck, rail, water, airplane, or otherwise, in order to determine what dealers are importing or otherwise are shipping articles of tangible personal property which are liable for the tax. If such transportation company, agency, firm or person as defined herein refuses to permit such examination of its or his books, records, and other documents by the Tax Commissioner, *or local commissioner of the revenue*, as aforesaid, it or he shall be guilty of a Class 1 misdemeanor. The Tax Commissioner, *or local commissioner of the revenue*, may proceed by petitioning the appropriate circuit court to require the transportation company, agency, firm, or person to show cause as to why such books, records, and other documents should not be examined pursuant to the injunction of the court, and as to why a bond should not be required with proper security in the penalty of not more than \$2,000 conditioned upon compliance with the provisions hereof for a period of not more than 1 year.

(Code 1950, § 58-441.29; 1966, c. 151; 1984, c. 675.)

Registration and Monitoring of Department of Professional Occupational Regulation (DPOR) applicable businesses

This concept would require CORs to verify that all applicable businesses obtained or renewed their Professional Occupation Licensure PRIOR to the issuance/renewal of a business license.

The advantages of such a process are:

- Adherence to State code requirements that no business operates without appropriate licensure from DPOR;
- Strengthen consumer protection measures by ensuring that businesses operate only with appropriate licensure from DPOR;
- Assist the State to ensure that all licensure revenues are properly collected;
- Provide additional revenues for the State by serving as registration and monitoring agencies on behalf of DPOR;
- Enhancement and Strengthening of other recently enacted legislation, i.e., HB 409.

Some localities will argue that this will cause additional stress and will burden existing staff. **The Commissioners of the Revenue Association does not agree with this argument.** Rather, we are of the opinion that this type of legislation will enhance our ability to discover businesses operating without proper State and/or Local licensure and will bring additional revenues to both the State and to our localities.