

PRESENTATION TO THE SENATE FINANCE COMMITTEE

INCENTIVE AND PENALTY OPTIONS TO ENCOURAGE THE CORRECT ALLOCATION OF THE LOCAL RETAIL SALES AND USE TAX

October 22, 2009

Study Mandate

- Study mandated by Item 270(K) of the 2008-10 Budget.
- TAX reported to the Senate Finance and House Appropriations Committees outlining potential incentives and penalties to encourage the accurate reporting of Local Retail Sales and Use Tax.
- Reports to the General Assembly, Report Document No. 191 (September 1, 2009)

Related Mandates

- TAX to:
 - Utilize software based on GPS data to accurately register businesses for local sales and use tax;
 - Modify return for consolidated filers to state the number of places of business in each locality;
 - Provide localities with increased computer systems access to information-only data.

Why These Mandates?

- Inaccurate reporting of local sales and use tax by businesses has been a longstanding problem for several Virginia localities.
 - Localities lose money that should have been allocated to them.
 - Localities that improperly receive allocations also suffer when the mistake is corrected and they lose money they have budgeted to spend.

Explanations for Incorrect Allocations

- Dealers register a business location with TAX using wrong locality.
- Remote sellers fail to use accurate software to identify the jurisdictions where customers are located.
- Remote sellers rely on the purchaser's mailing address alone, which may be misleading.
- Human errors made while processing returns not printed by TAX.

What Happens if an Incorrect Distribution Occurs?

- Locality requests a correction by TAX.
- Requires agreement between both localities.

TAX's Efforts to Remedy the Problem

- TAX has increased comprehensive training to TAX employees.
- TAX closely reviews transactions assigned to the “300” account to find and correct errors.
- TAX periodically performs quality review checks and actively seeks errors in distribution.
- Tax distributes monthly reports to localities in order that localities may identify errors.

Efforts Mandated by Budget Bill

TAX Utilizes New GPS Software

- Effective July 1, 2009, TAX implemented new version of Trillium, which provides geo-coded FIPS code information
 - Improves upon previous ZIP code-based software used by TAX.
 - Trillium is being used by both TAX's web-based registration application used by dealers and TAX's internal registration system.

Efforts Mandated by Budget Bill

TAX has Modified its Consolidated Return

- Consolidated return filers must provide a count of the number of business locations in each locality.
- This information will be compared to count in TAX's registration database systems.
- TAX will contact taxpayer if there is an inconsistency.

Efforts Mandated by Budget Bill

Systems Access by Localities

- TAX currently working with localities on a list of issues and enhancements to include access to additional information.
- Priority areas for localities will be worked on as TAX technology resources are available.

Local Efforts to Remedy the Problem

Henrico County is one Virginia locality impacted by this issue. As a result, Henrico has:

- Established a program to review the accuracy of the registrations of newly registered sales tax dealers in Henrico County and the City of Richmond.
- on January 1, 2009, had the U.S. Postal Service rename sixteen ZIP codes from “Richmond, VA” to “Henrico, VA”.

Potential Incentives

Option 1—Local Sales Tax Discount, Sliding Scale:

Provide dealer compensation from local tax liability to all retailers who elect to use software certified by TAX to allocate the local tax.

Option 2—Local Sales Tax Discount, Fixed Rate:

Same as Option 1, but using a flat rate.

Potential Incentives

Option 3—Discount for Proper Registration: One-time discount for every five-year period in which a retailer remains properly registered and makes no allocation mistakes.

- May be difficult for TAX to track the number of businesses that are not properly updating their registration status.
- Could potentially reward retailers who continue to misallocate use tax because they are not using suitable software.

Potential Penalties

Option 4—Limit Dealer Discount—Limit current dealer discount for retailers that fail to utilize TAX-certified software to 50% of their current dealer discount entitlement.

Option 5—Eliminate Dealer Discount: Totally eliminate the state dealer discount for any retailer who elected not to utilize the TAX - certified software.

**Imposing penalties could provide a disincentive for voluntary registrants to continue to voluntarily collect Virginia's Retail Sales and Use Taxes.

Conclusion/Recommendation

- TAX not recommending any incentive or penalty options at this time.
 - Merchants appear resistant to penalties.
 - Cost to businesses of software
 - Localities are resistant to using local revenues to provide incentives.
 - Options may be unnecessary, as current efforts may resolve the issue.

Presenter

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