

Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



Virginia Department of Planning and Budget Economic Impact Analysis

23 VAC 10-390 Virginia Soft Drink Excise Tax Regulations
Department of Taxation
Town Hall Action/Stage: 4679/7719
July 31, 2018

Summary of the Proposed Amendments to Regulation

As a result of a periodic review,¹ the Department of Taxation proposes to repeal provisions that are no longer accurate due to statutory changes or are duplicative of the statutory language.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

This regulation contains general provisions applicable to the Soft Drink Excise Tax. Numerous statutory changes in the 1989, 1991, 1999, and 2005 Virginia General Assembly sessions amended the Soft Drink Excise Tax and rendered the current regulatory language inaccurate.² In addition, some of the current regulatory provisions are unnecessary because they are duplicative of information provided in the statute. The proposed changes will update the regulation so that it is consistent with the statute. Since this regulatory action does not reflect any change in current tax policy or on the administration of the soft drink excise tax, no economic

¹ See <http://townhall.virginia.gov/l/ViewPReview.cfm?PRid=1510>.

² See 1989 Acts of Assembly, Chapter 629,
1991 Acts of Assembly, Chapter 316,
<http://lis.virginia.gov/cgi-bin/legp604.exe?991+ful+CHAP0180>
<http://lis.virginia.gov/cgi-bin/legp604.exe?051+ful+CHAP0100>.

effect is expected other than potentially reducing confusion by eliminating conflicting information between the Code of Virginia and the regulation.

Businesses and Entities Affected

This regulation applies to approximately 70 taxpayers who file a Soft Drink Excise Tax return.

Localities Particularly Affected

The proposed changes do not disproportionately affect particular localities.

Projected Impact on Employment

No impact on employment is expected.

Effects on the Use and Value of Private Property

No impact on the use and value of private property is expected.

Real Estate Development Costs

No impact on real estate development costs is expected.

Small Businesses:**Definition**

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

Costs and Other Effects

Of the 70 taxpayers that file a Soft Drink Excise Tax return, approximately 22 are estimated to be small businesses. The proposed regulation does not impose costs on small businesses, but is expected to benefit them by eliminating potentially confusing language between the regulation and the statute.

Alternative Method that Minimizes Adverse Impact

No adverse impact on small businesses is expected.

Adverse Impacts:**Businesses:**

No adverse effects are expected on small businesses.

Localities:

The proposed amendments will not adversely affect localities.

Other Entities:

The proposed amendments will not adversely affect other entities.

Legal Mandates

General: The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 14 (2018), as amended. Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

Adverse impacts: Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.