



Economic Impact Analysis Virginia Department of Planning and Budget

23 VAC 10-210 – Retail Sales and Use Tax
Department of Taxation
September 25, 2008

Summary of the Proposed Amendments to Regulation

Effective October 1, 1999, the Department of Taxation (Department) allowed the use of an alternative method of computing the use tax compliance ratio in audit situations. This alternative method is an administrative change for the Department and is not reflected in statute. The Department proposes to amend these regulations to delineate the alternative method for computing use tax compliance, and to specify that taxpayers may use the alternative method if desired.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

During sales and use tax audits, the Department calculates the use tax compliance of businesses. Use tax compliance measures business' compliance in accruing and remitting the Virginia use tax on purchases where the vendor does not collect sales tax. As delineated in the current regulations the use tax compliance ratio does not include taxes paid to vendors. It is calculated as follows:

$$\text{Compliance Ratio} = (\text{Measure Reported}) / (\text{Measure Reported} + \text{Measure Found}),$$

where Measure Reported means the dollar amounts of taxable sales or the dollar amounts of purchases reported on a return for the entire audit period, and Measure Found means the dollar amounts of additional sales deficiency or dollar amounts of additional use deficiency disclosed by the audit.

The compliance ratio determines the application of audit penalty to use tax liabilities resulting from audit.

As stated earlier, the Department has allowed the use of an alternative method of computing the use tax compliance ratio since October 1, 1999. Under the alternative method the compliance ratio is calculated as follows:

$$\text{Compliance Ratio} = \frac{(\text{Measure Reported} + \text{Measure Paid to Vendors})}{(\text{Measure Reported} + \text{Measure Paid to Vendors} + \text{Measure Found}),}$$

where Measure Paid to Vendors means the dollar amounts of purchases on which the purchaser paid the Virginia sales or use tax to the vendor.

The alternate method increases the compliance ratio where sales taxes have been paid to vendors. Consequently since October 1, 1999 some firms have avoided audit penalties who would have been subject to penalties under the original compliance ratio formula. The alternative method also reduces costs for the Department since it reduces the number of audit appeals and offers in compromises as they relate to the audit penalty.

Since the proposal under consideration is to place in regulations policy that has been applied since 1999, no businesses other than those who may have been unaware of the opportunity to use the alternative method of calculating the use tax compliance ratio will be significantly affected. Delineating the alternative method for computing use tax compliance, and specifying that taxpayers may use the alternative method if desired is beneficial in that some firms that would not otherwise been aware of the opportunity to potentially avoid the audit penalty may became aware of the opportunity and thus save costs.

Businesses and Entities Affected

These regulations on computing the use tax compliance ratio in audit situations can potentially affect any in business in the Commonwealth since all businesses are potentially subject to such audits. Since the proposal under consideration is to place in regulations policy that has been applied since 1999, no businesses other than those who may have been unaware of the opportunity to use the alternative method of calculating the use tax compliance ratio will be significantly affected.

Localities Particularly Affected

The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment

The proposal amendments do not significantly affect employment.

Effects on the Use and Value of Private Property

The proposal to amend these regulations to delineate the alternative method for computing use tax compliance, and to specify that taxpayers may use the alternative method if desired may moderately increase the value of a small number of firms if they would have otherwise been unaware of the opportunity to use the alternative method and are able to avoid the audit penalty by doing so.

Small Businesses: Costs and Other Effects

The proposal to amend these regulations to delineate the alternative method for computing use tax compliance, and to specify that taxpayers may use the alternative method if desired may moderately reduce costs for a small number of small businesses if they would have otherwise been unaware of the opportunity to use the alternative method and are able to avoid the audit penalty by doing so.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed amendments do not adversely affect small business.

Real Estate Development Costs

The proposed amendments do not significantly affect real estate development costs.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the

regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.