



## **Economic Impact Analysis Virginia Department of Planning and Budget**

---

**23 VAC 10-210 – Retail Sales and Use Tax**  
**Department of Taxation**  
November 19, 2008

---

### **Summary of the Proposed Amendments to Regulation**

The 2005 General Assembly enacted House Bill 2762 (2005 Acts of Assembly, Chapter 121) amending the definition of “retail sale” and “sale at retail” set forth in Code of Virginia Section § 58.1-602 to include separately stated charges for materials used in automotive refinishing and repair when such materials become permanently attached to the vehicle being refinished or repaired. This change in the definition of “retail sale” and “sale at retail” is a departure from the Department of Taxation’s (Department) longstanding policy that treats automotive refinishers and painters as service providers and the taxable user and consumer of tangible personal property used in providing their service. This legislative change allows automotive refinishers and repairers the option of continuing to operate as service providers or to be treated as retailers by separately stating their charges for materials. The Department proposes to amend these regulations to reflect the statutory change and to add some clarifying language.

### **Result of Analysis**

The benefits likely exceed the costs for all proposed changes.

### **Estimated Economic Impact**

As a service firm, automotive refinishers and repairers pay sales tax on the paint they buy. As stated above, legislation passed in 2005 has permitted refinishers and repairers the option to be treated as retailers of the paint they apply to vehicles; and thus they become exempt from paying tax on the paint they buy, but instead collect sales tax from their customers on the paint use in refinishing and/or repairing of the customer's vehicle. The Department does not

know how many of the 793 automotive body, paint, and interior repair and maintenance firms<sup>1</sup> in have utilized the option of being treated as a retailer for the paint they apply to automobiles. The proposal to amend these regulations to reflect Chapter 121 of the 2005 Acts of Assembly will not likely have a significant effect since adding the language in no way alters options and or requirements for firms, their clients, or anyone else.

### **Businesses and Entities Affected**

The statutory changes affected the 793 automotive body, paint, and interior repair and maintenance firms in Virginia. The proposed amendments to these regulations do not significantly affect businesses and other entities since the proposed amendments only reflect the statutory changes which are already in effect and clarifications.

### **Localities Particularly Affected**

The proposed amendments do not disproportionately affect particular localities.

### **Projected Impact on Employment**

Since the proposed amendments only reflect statutory changes and clarifications and do not change requirements for the public, there is no significant effect on employment.

### **Effects on the Use and Value of Private Property**

Since the proposed amendments only reflect statutory changes and clarifications and do not change requirements for the public, there is no significant effect on the use and value of private property.

### **Small Businesses: Costs and Other Effects**

Since the proposed amendments only reflect statutory changes and clarifications and do not change requirements for the public, there is no significant effect on small businesses.

### **Small Businesses: Alternative Method that Minimizes Adverse Impact**

Since the proposed amendments only reflect statutory changes and clarifications and do not change requirements for the public, there is no significant effect on small businesses.

---

<sup>1</sup> Data source: Virginia Employment Commission Quarterly Census of Employment and Wages (Quarter 4, 2007)

## **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.