

DEPARTMENT OF TAXATION

2022 Fiscal Impact Statement

1. **Patron** Marie E. March

2. **Bill Number** HB 152

3. **Committee** House Finance

House of Origin:

 Introduced

 X **Substitute**

 Engrossed

4. **Title** Retail Sales and Use and Local Taxes exemption; Payment card processing fees;

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

The Department of Taxation ("the Department") understands the Patron intends to introduce a substitute for this bill. This fiscal impact statement is based on that substitute.

This bill would provide dealers a discount for the amount of any payment card processing fees paid to a payment card network provider on the amount of taxes collected during electronic payment transactions for the state Retail Sales and Use Tax ("RSUT") as well as county food and beverage, admissions, and transient occupancy taxes. The dealer would be permitted to take the discount in the form of a deduction on their next return. The bill would also provide for the same discount for city and town taxes on admissions, transient occupancy, meals, and travel campgrounds.

Under current law, dealers are permitted a discount on the first three percent of state sales and use tax collected in proportion to their monthly taxable sales.

If enacted during the regular session of the 2022 General Assembly, this bill would become effective July 1, 2022.

6. **Budget amendment necessary:** Yes.

Item: Page 1, Revenue Estimates

7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

7b. **Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2022-23	(\$52.5 million)	GF
2023-24	(\$59.0 million)	GF
2024-25	(\$60.4 million)	GF
2025-26	(\$60.8 million)	GF
2026-27	(\$61.1 million)	GF
2027-28	(\$61.3 million)	GF

8. Fiscal implications:

Administrative Costs

This bill could have an unknown impact on local administrative costs. The Department considers implementation of this bill to be routine and does not require additional funding.

Revenue Impact

This bill would have an estimated negative impact to General Fund RSUT revenues of \$52.5 million in Fiscal Year 2023, \$59.0 million in Fiscal Year 2024, \$60.4 million in Fiscal Year 2025, \$60.8 million in Fiscal Year 2026, \$61.1 million in Fiscal Year 2027, and \$61.3 million in Fiscal Year 2028.

This bill would have an estimated negative impact to Commonwealth Transportation Fund RSUT revenues of \$13.6 million in Fiscal Year 2023, \$15.2 million in Fiscal Year 2024, \$15.6 million in Fiscal Year 2025, \$15.7 million in Fiscal Year 2026, \$15.8 million in Fiscal Year 2027, and \$15.9 million in Fiscal Year 2028.

This bill would have an estimated negative impact to local revenues of \$30.4 million in Fiscal Year 2023, \$34.3 million in Fiscal Year 2024, \$35.4 million in Fiscal Year 2025, \$36.3 million in Fiscal Year 2026, \$37.1 million in Fiscal Year 2027, and \$38.0 million in Fiscal Year 2028. This includes the impact on the local option RSUT and the impact to locally administered taxes.

9. Specific agency or political subdivisions affected:

Department of Taxation
All localities

10. Technical amendment necessary: No.

11. Other comments:

Payment Card Processing Fees

Retail merchants typically pay transaction processing companies a fee when a purchaser uses a credit, debit, or prepaid card. This fee is generally comprised of a charge based on a percentage of the whole transaction amount and/or a flat fee collected per transaction.

Retail Sales and Use Tax

For accounting for and remitting Virginia Retail Sales and Use Tax, a dealer holding a certificate of registration is allowed a deduction from the first three percent of the state tax that the dealer accounts for in submitting his return and paying the amount due in the following percentages:

- 1.6 percent, if the monthly taxable sales of the dealer is \$0 to \$62,500;

- 1.2 percent, if the monthly taxable sales of the dealer is \$62,501 to \$208,000; and
- 0.8 percent if the monthly taxable sales of the dealer is \$208,001 and above.

The discount is computed using monthly taxable sales, regardless of the number of certificates of registration held by a dealer. The discount is not allowed if the amount of tax due is delinquent at the time of payment.

Transient Occupancy Tax

Counties may levy a transient occupancy tax on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms rented out for continuous occupancy for fewer than 30 consecutive days. The rate of the tax is determined by the locality via ordinance. The first two percent of any such tax and any excess over five percent may be used by the locality as general revenues. The revenue from the tax between two and five percent, however, must be used by the locality to promote tourism and travel and generate tourism revenues in the locality.

Food and Beverage Tax

Counties are authorized to levy a tax on food and beverages for human consumption sold by a restaurant at a rate not to exceed six percent.

Admissions Tax

Counties are generally authorized to levy, by ordinance, a tax on admissions charged for attendance at any event at a rate not to exceed 10 percent.

Excise Taxes Permitted in Cities and Towns

Any city or town having general taxing authority established by charter are permitted to levy excise taxes on admissions, meals, transient occupancy, and campgrounds without restriction on the rate of such tax.

Proposal

This bill would provide dealers a discount for the amount of any payment card processing fees paid to a payment card network provider on the amount of taxes collected during electronic payment transactions for state RSUT as well as county food and beverage, admissions, and transient occupancy taxes. The dealer would be permitted to take the discount in the form of a deduction on their next return. The bill would also provide for the same discount for city and town taxes on admissions, transient occupancy, meals, and travel campgrounds.

The bill would define “payment card processing fee” as a fee established, charged, or received by a payment card network for the purpose of compensating the issuer for its involvement in an electronic payment transaction.

The bill would define “payment card network” as an entity that (i) directly, or through licensed members, processors, or agents, provides the proprietary services, infrastructure, and software that routes information and data to conduct debit card or credit card transaction authorization, clearance, and settlement and (ii) a merchant or seller uses in order to accept as a form of payment a brand of debit card, credit card, or other device that may be used to carry out debit or credit transactions.

The bill would define “electronic payment transaction” as a transaction in which a person uses a debit card, credit card, or other payment code or device issued or approved through a payment card network to debit a deposit account or use a line of credit, whether authorization is based on a signature, personal identification number, or other means.

If enacted during the regular session of the 2022 General Assembly, this bill would become effective July 1, 2022.

cc : Secretary of Finance

Date: 1/30/2022 VB
HB152F161