

DEPARTMENT OF TAXATION

2026 Fiscal Impact Statement

1. **Patron** Mark J. Peake

3. **Committee** Senate Finance and Appropriations

4. **Title** Retail sales and use tax; penalty and interest for certain dealers.

2. **Bill Number** SB 766

House of Origin:

X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide that any dealer that (i) is an operator of an event venue that neither provides nor offers overnight stays, (ii) fails to make any sales and use tax return and pay the full amount of such tax for those transactions that include both items that are taxable and nontaxable, and (iii) has demonstrated no willful intent to defraud the Commonwealth would only be liable for penalty and interest amounts calculated upon the amount of such unpaid tax rather than the amount of the lump sum of the subject transactions.

If enacted during the regular session of the 2026 General Assembly session, this bill would become effective July 1, 2026.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

This bill would have no impact on local administrative costs.

The Department of Taxation ("the Department") considers this bill as routine, and does not require additional funding.

This legislation does not require significant changes to the Department's systems and is not impacted by the first phase of the Integrated Revenue Management System (IRMS) replacement project. No resource constraints or implementation considerations are anticipated.

Revenue Impact

This bill would have no impact on local revenues.

This bill may result in an unknown negative impact to state revenues.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Failure to File Returns

Current law provides that when any dealer fails to make any return and pay the full amount of the tax required, there shall be imposed, in addition to other penalties, a specific penalty to be added to the tax in the amount of six percent if the failure is for not more than one month, with an additional six percent for each additional month, or fraction thereof, during which the failure continues, not to exceed 30 percent in the aggregate.

If such failure to make a return and pay the full amount of the tax required is due to providential or other good cause shown to the satisfaction of the Tax Commissioner, such return with or without remittance may be accepted exclusive of penalties.

False or Fraudulent Returns

In the case of a false or fraudulent return where willful intent exists to defraud the Commonwealth of any tax due under the Retail Sales and Use Tax Chapter, or in the case of a willful failure to file a return with the intent to defraud the Commonwealth of any such tax, a specific penalty of 50 percent of the amount of the proper tax shall be assessed. All penalties and interest imposed herein are to be payable by the dealer and collectible by the Tax Commissioner in the same manner as if they were a part of the tax imposed.

It is prima facie evidence of intent to defraud the Commonwealth of any tax due under the Retail Sales and Use Tax Chapter when any dealer reports its gross sales, gross proceeds or cost price, as the case may be, at 50 percent or less of the actual amount.

Interest

Interest at a rate determined in accordance with *Virginia Code* § 58.1-15, accrues on the tax until the same is paid, or until an assessment is made, pursuant to *Virginia Code* § 58.1-15, after which interest accrues as provided therein.

Mixed Transaction Rule

According to 23 VAC 10-210-4040 of the Department's regulations, services are generally exempt, but if services are provided in connection with the sale of tangible personal property, the entire charge is taxable. This means that if one lump sum is charged for taxable and non-taxable items, tax applies to the entire amount.

The Department has reinforced this interpretation in multiple rulings over decades:

- Public Document (P.D.) 09-2 (2009): Addressed mixed transactions involving real property rentals and tangible personal property. The Department held that when tangible items (e.g., furniture) are included in a venue rental for one price, tax applies to the entire charge.
- P.D. 20-177 (2020): Applied the same principle to event packages that combined services and tangible items. The Department emphasized that failure to separately state charges makes the entire transaction taxable.
- P.D. 25-27 (2025): Focused on event venues that rented space and included tables, chairs, and bench seating in wedding packages for one lump sum. The Department ruled that the entire package price is taxable and upheld the assessment because the taxpayer also failed to maintain adequate records.

Proposal

This bill would provide that any dealer that (i) is an operator of an event venue that neither provides nor offers overnight stays, (ii) fails to make any sales and use tax return and pay the full amount of such tax for those transactions that include both items that are taxable and nontaxable, and (iii) has demonstrated no willful intent to defraud the Commonwealth would only be liable for penalty and interest amounts calculated upon the amount of such unpaid tax rather than the amount of the lump sum of the subject transactions.

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cc : Secretary of Finance

Date: 01/29/2026 VB
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