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MAJOR TAX ENACTMENTS OF THE 1966  
VIRGINIA ASSEMBLY — And Interpretative and  
Procedural Problems Encountered to Date

C. H. MORRISSETT  
*State Tax Commissioner*

Thank you, Dr. Atkeson and ladies and gentlemen. I am always delighted when I receive an invitation from Dr. Atkeson to appear on an occasion like this. I have had at least one pleasant experience with this group. I could not refuse to respond to Dr. Atkeson's invitation. I know how high he stands in this country as a tax administrator, as a scholar, and I must say, in my estimation, one of the finest gentlemen I have ever known.

The subject assigned to me is: Major Tax Enactments of the 1966 Virginia General Assembly. Time will not permit a review of all of the tax legislation enacted at the session of 1966. The one major enactment is the Virginia Retail Sales and Use Tax Act.

As far back as 1944 the Virginia General Assembly created a commission to study the sales tax question. That commission worked hard and filed its report in February 1945. The report did not recommend the enactment of a general sales tax at that time but suggested that it would not be long before Virginia would be forced into the sales tax field because of the then rising budget, and of course it has been rising ever since.

That was twenty-two years ago, and it was until 1966 that the Assembly decided to enact a sales tax. This had been avoided by the adoption of various devices such as acceleration of payment of some principal taxes in Virginia in 1957 and the adoption of State income tax withholding effective as of January 1, 1963. But when the General Assembly convened in January of 1966, there were some 15 cities in Virginia that had ordained city sales taxes of a general nature. These, however, with the exception of one which had acted many years ago, had in their ordinances a maximum tax limitation of \$4 on any one article or transaction.

A sales tax with such a limitation is quite different from what I am constrained to call a genuine sales tax, and I think we must bear in mind, with respect to any general sales tax, that the difficult area is not that involving the ordinary retailer who sells to non-business purchasers or consumers, but rather the area of great difficulty is where sales are made to business users or business purchasers, because there you are treating as

retail sales many sales that, according to the way we have looked at the matter in Virginia for generations, have been classified as wholesale.

The necessity of uniformity impelled the General Assembly to take action to eliminate these local city sales taxes, especially in view of the fact that more cities were getting ready to put on local sales taxes and the counties were also going to ask for authority to impose local county sales taxes. Uniformity in these city sales taxes was lacking both in substance of the ordinances and in their interpretation. That, I say, was an impelling reason for the enactment of the State-wide sales tax, apart from the need of the State and its localities for additional revenue to meet the demands for expanded governmental services.

The State legislation as drafted was not taken from the sales tax law of any particular state but contained provisions selected from the laws of various other states, many original provisions, of course, and some provisions of other states adapted to the Virginia situation.

It is estimated that taxable retail sales in Virginia may reach in a full calendar year or in a full fiscal year a figure in the neighborhood of five billion dollars. This base simply represents the best estimate that could be made in the circumstances.

A complicating feature obviously is the provision allowing our localities to impose an add-on 1% sales tax, collectable by the State along with the State rate of 2%, which State rate of 2% will rise to 3% on July 1, 1968. The localities are not permitted to impose local use taxes for good reasons, and some complaints are being received with respect to the competitive disadvantage of some Virginia dealers as compared with some out-of-State dealers where a sale is under the protection of the Interstate Commerce clause and the sales tax cannot be applied but the use tax is applicable under the decisions of the courts. Just what can be done about that situation is not clear at this time.

The Virginia Retail Sales and Use Tax Act was enacted or approved on March 12, 1966. The tax became effective September 1, 1966. Now please remember that this tax applies principally to sales at retail and leases tangible personal property. The services covered by it are very few indeed. Unless you regard the tax which is imposed on transient room rentals as on a service, then I may say that there is no major service covered by the Act. It does not, for example, apply to the sales of tickets to places of amusement or recreation or entertainment or anything of that kind.

The Department of Taxation immediately after March 12, 1966 began preparations for the administration of the tax. Other states having a sales and use tax were requested to furnish copies of the forms used by them together with any other information they felt might be of value. For many years the Department has subscribed to tax services covering

all states. Representatives of the Department visited the sales and use tax divisions of the states of Alabama, Georgia, Kentucky, North Carolina and South Carolina. The purpose of these visits was to view the physical aspects of each division and to discuss problems of administration.

Preparations for the establishment of a Sales and Use Tax Division were begun early in the spring of 1966, and a director, previously appointed, began his duties on June 6. Officials of the Department made sales tax talks in many parts of the State during the summer months for the purpose of explaining the Act and discussing its application to various types of transactions. These officials made a total of 97 talks in cities and counties and in this way reached in person approximately 16,500 dealers and others. Many of these meetings were held in cooperation with the Virginia Retail Merchants' Association and other trade associations. Moreover, in cooperation with the Virginia Retail Merchants' Association, approximately thirty one-minute radio messages on the sales tax were broadcast by more than fifty radio stations several times a day, over a period of about three weeks in August and September.

The Virginia Sales and Use Tax Regulations were prepared in the summer of 1966. A quarter of a million copies were printed and this pamphlet was distributed several weeks prior to September 1 among all members of the General Assembly, all State agencies, several classes of local officers, all members of the Virginia State Bar, all members of the Virginia Society of Certified Public Accountants, and scores of thousands of dealers and other persons.

We all realize that what we call rules and regulations are absolutely necessary in order that anyone other than, I might say, the smartest kind of individual, may reasonably understand and apply legislation of this kind. Therefore, aids are required. Manifestly, no rule or regulation issued by an administrative department can add to or detract from the Act itself, but in the matter of administrative interpretation there you have something that is, I believe, of great value to all concerned.

These rules and regulations as prepared and issued certainly seem to compare favorably with corresponding rules and regulations issued in other states. Of course, no single individual could, out of the clear blue, prepare rules and regulations of the character that we are now talking about without drawing upon all the work that has been done, or a great amount of the work that has been done, in other states. Therefore, in preparing these rules and regulations those who prepared them had access to and did use pertinent information derived from the laws and rules and regulations of other states.

Forms for dealers for making application for certificates of registration, the certificate of registration, bracket system tables, eleven forms of certificates of exemption, a form of direct payment permit, and several

different forms mostly for reporting by dealers and consumers were designed, printed and made available for use within a reasonable time before the date necessary for use.

In the preparation of the forms the Department has undertaken to make them as simple as possible. For example, the regular return form used by most dealers, that is to say, the one used by the vast majority, is merely a computer card, an IBM card, with just a few lines for the insertion of the figures; and we believe that any retailer who has a set of books worth the name can prepare the return with relative ease. But in order to aid one to prepare that return, we have designed what we call a work sheet, and that work sheet has information printed on the back of it telling how to prepare the work sheet, and the dealer simply copies from the work sheet, which he keeps himself, the pertinent figures, and puts them on the return form itself. We find, of course, that among our dealers whose intelligence ranges from, I am going to say, the lowest to the highest, difficulty is experienced by some in preparing these returns; but that is a matter that will have to be adjusted as time goes on.

I am trying to say how the Department has undertaken to handle this major undertaking. A mailing list was compiled from State business licenses, state capital tax returns and other sources. And during the first week in July applications for certificates of registration together with pertinent fundamental information were mailed to all prospective dealers of record. Applications for certificates of registration are simple in form, according to our way of thinking, and we have had to have one form for Virginia dealers, and also a use tax form for out-of-State dealers who are required to register for the collection of the use tax only. Appropriate procedures were adopted for processing monthly returns from dealers and consumers. We have one form for consumers who are required to file consumers' use tax returns. Accounting methods were formulated for handling remittances and depositing the same in bank to the credit of the State Treasurer.

The great majority of the cities and counties impose the authorized 1% local add-on sales tax for collection by the State and return to the respective localities. On the point of the collection by the State of the State sales tax as well as the local, you are aware of the fact that some of our commissioners of the revenue were of the opinion that the administration should be localized, but that the idea was not acceptable to the General Assembly.

As of September, the only counties and cities in Virginia that had not put on the local add-on 1% were the counties of Alleghany, Cumberland, Frederick, Pittsylvania, Powhatan and Spotsylvania, and the cities of Danville and Fairfax. Not long ago the cities of Danville and Fairfax adopted the local add-on sales tax effective January 1, 1967 and so did

the county of Spotsylvania. So that beginning January 1, 1967, only the counties of Alleghany, Cumberland, Frederick, Pittsylvania and Powhatan will be out of the local add-on picture. That means that all of the thirty-five cities will have put it on, and all of the ninety-six counties except those just named. Therefore, we are having substantial but not full uniformity throughout the State with respect to the 1% local sales tax.

Of course we all realize that in doing the things that I tried to enumerate it was necessary for the Department of Taxation to draft personnel from other divisions of the Department, because the Department had to handle tens of thousands of requests for forms and information and so forth, and to answer, I should say, at least one hundred thousand telephone calls. The number of letters that have been received will run into the thousands, and if I had any apology to make I would make it right here, because I know that we have not been able to keep up to date in answering all of these letters, some of which present problems of an extremely technical nature, which cause one to rack his brain in order to arrive at some reasonable answer. So I say if anyone here has written the Department asking its views on some specific question, or on the application of the Act to a particular set of facts, if you have not received an answer, please be patient a little while longer because that is where we have had the most difficulty. And I say again, the most difficulty has been in the area of answering in good fashion and in fair fashion and rather promptly the thousands upon thousands of letters that we have received—not only from business men in Virginia but from business men throughout the country.

The Virginia General Assembly, in enacting the big bill, which I am calling it at the moment, also enacted a companion bill known as the Virginia Motor Vehicle Sales and Use Tax Act. Under that Act the tax is imposed on the purchaser which is an entirely different thing from what the general sales tax act does. That tax is a license or privilege tax imposed on the dealer for engaging in the business of selling or leasing tangible personal property or furnishing any of the taxable services. It is the vendor type of a general sales tax. The legal incidence is on the vendor. The vendor is required, however, to state the tax separately and to add it to the sales price or charge, and thereafter the tax becomes a debt from the purchaser to the vendor. If the purchaser or vendee will not pay it then the dealer may collect it by legal process if he be so advised. I say, however, that here in the case of the Motor Vehicle Sales Tax you have a different approach and the reason for that is that the tax is collected not from the vendor but from the purchaser or vendee, and it is collected at the time that he applies to the Division of Motor Vehicles for a certificate of title for his motor vehicle, whether it be a new one or an old one, except that

the tax does not apply to any 1966 motor vehicle that is sold as a new vehicle until January 1, 1967.

A while ago I said that the State general sales tax rate of 2% would rise to 3% on July 1, 1968; but the same is not true with respect to the motor vehicle sales tax. That will remain at 2%. And moreover, no locality is empowered to impose any sales tax on motor vehicles.

You can see from what I have said that the collection of the sales tax on motor vehicles has been simplified, I think, to the extreme. Although some call it a titling tax, that is not the true designation of it. And I am happy to be able to say that we all appreciate the action of the Internal Revenue Service in ruling that the Motor Vehicle Sales Tax is a deductible tax in preparing a federal income tax return, that is, a non-business deduction the same as the general sales tax will be. And of course both of these taxes will be deductible from gross income in preparing Virginia State income tax returns. The State has prepared and will have available sales tax deduction guides. These guides must also take care of the local city sales taxes up to Sept. 1. The Internal Revenue Service is looking after the same thing in the matter of the Federal income tax returns.

Our Division of Data Processing was formerly engaged principally in processing income tax returns and refunds; this year we have made over 800,000 income tax refunds caused by over-withholding or over-estimating and over-paying estimated tax. This division found it necessary to enlarge its capacity in order that it could adequately function also in connection with the administration of the sales and use tax. Under the system as we have it, the approximately 70,000 registrants under the sales tax can be mailed the monthly return forms inside of a day and a half or two days. It is interesting to note that the number of registered vendors or dealers in Virginia, approximately 70,000, is just about the same in number as employers who are paying to the State the withheld State income taxes. The plan is to mail these monthly return forms not later than the very early days of each month so that they can be filed for the preceding month by the deadline for filing which is the 20th day of the month following the sales month.

Permit me to say at this time that the Department of Taxation welcomes all constructive suggestions—suggestions relating to procedures in general and administrative procedures in particular. We realize that as time goes on the work involved in this matter is going to increase. As soon as developments make it necessary the Department of Taxation will establish some regional offices at strategic points in Virginia. Any sales tax, if not followed by adequate field enforcement, is in time apt to become hardly more than a joke. And so it will be necessary for Virginia to have an adequate field force in the category of investigators

and also in the category of auditors. That effort will materialize in due season. It will be educational. Our dealers who are now having troublesome questions will find that these field men will be able, or ought to be able, to render valuable assistance to them.

Now I believe my time has expired and I wish to thank you for the kind attention that you have given me.

