



COMMONWEALTH of VIRGINIA

Department of Taxation

January 8, 2019

The Honorable Ralph S. Northam
Governor of Virginia
Post Office Box 1475
Richmond, Virginia 23218

The Honorable Thomas K. Norment, Jr.
Co-Chairman, Senate Finance Committee
Post Office Box 6205
Williamsburg, Virginia 23188

The Honorable S. Chris Jones
Chairman, House Appropriations Committee
Post Office Box 5059
Suffolk, Virginia 23435

The Honorable Emmett W. Hanger, Jr.
Co-Chairman, Senate Finance Committee
Post Office Box 2
Mount Solon, Virginia 22843

Attached is the Report of the 2018 Accelerated Sales Tax Workgroup, which was mandated by Item 272(D) of the 2018 Appropriation Act. If you have any questions regarding the report, please contact me at (804) 786-3332 or Craig.Burns@tax.virginia.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig M. Burns".

Craig M. Burns
Tax Commissioner

c: The Honorable Aubrey L. Layne, Jr., Secretary of Finance
Members of the House Appropriations Committee
Members of the Senate Finance Committee

Report of the 2018
Accelerated Sales Tax
Workgroup

Department of Taxation
December 2018

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Executive Summary

Pursuant to Item 272(D) of House Bill 5002 (2018 Special Session I, Chapter 2), the Department of Taxation (“the Department”) was charged with convening a workgroup to examine the timing of Accelerated Sales Tax (“AST”) payments. The workgroup was specifically required to:

- ▶ Establish a cost and a timeline for the Department to implement an easy online application provided by the Department for dealers to apply for the hardship exception;
- ▶ Determine whether the hardship definition is currently adequate or can be expanded to include additional hardship scenarios;
- ▶ Make recommendations regarding earlier notice to dealers;
- ▶ Assess the equity of monthly 6 percent late payment penalties;
- ▶ Study the impact to the state of phasing out AST by Fiscal Year 2022;
- ▶ Study the ability of the General Assembly to lower the AST threshold by more than 10 percent in one year when the threshold is at \$15 million or less; and
- ▶ Discuss alternatives and limitations to the current AST requirement and other issues related to sales tax deemed appropriate, including semimonthly remittance of sales tax as an alternative

The workgroup met three times from August to November 2018 and addressed the seven topics included in its mandate. Representatives from the business, accounting, and legal professions, as well as staff from the Department, the General Assembly, and the Governor’s office were included in the discussion. This report summarizes the discussions during these meetings, as well as the findings from the workgroup.

Report of the 2018 Accelerated Sales Tax Workgroup

The Accelerated Sales Tax (“AST”) Workgroup was established by Item 272(D) of the 2018 Appropriation Act (House Bill 5002, 2018 Special Session I, Chapter 2). See Appendix A. The workgroup was asked to consider alternatives and limitations to the current AST mandate and examine other sales tax-related issues as it deemed appropriate.

The workgroup met three times from August to November 2018. At each meeting, the Department of Taxation (Department) presented information about the current AST structure, focusing particular attention on notice to dealers and AST hardship waivers. Following each presentation there was a period of discussion among the group about AST related topics.

Sales Tax Background

The Retail Sales and Use Tax is imposed on all sales of tangible personal property and selected services unless an exemption applies. The tax rate is 5.3 percent statewide with an additional 0.7% tax in Northern Virginia and Hampton Roads localities, and an additional 1.0 percent tax in the City of Williamsburg, York County, and James City County. Sales tax returns must be filed by the 20th of the month following the month the tax was collected. All sums collected by a dealer are required to be held in trust for the Commonwealth. (*Va. Code* 58.1-625(F)).

Current AST Program

Section 3-5.06 of the 2018 Appropriation Act (House Bill 5002, 2018 Special Session I, Chapter 2) mandates that sales tax collected in June of the current year be remitted by the end of June rather than by July 20 as required under *Va. Code* §§ 58.1-615 and 58.1-616. The program thereby deposits sales tax revenues into the current fiscal year which would otherwise be received and recognized in the next fiscal year. This allows the revenues to be appropriated in the current fiscal year.

The current AST program was implemented in 2010. Dealers with annual sales over the statutory threshold must make a payment for June sales tax that is equal to 90 percent of their liability for the previous June. This payment must be made on or before the 30th day of June, if by electronic fund transfer; otherwise it is due on or before the 25th day of June. Dealers are then entitled to a credit equal to the AST remittance on their June sales tax return filed in July. The AST threshold amount is set in the Appropriation Act and determines the number of dealers that are affected and the amount of revenue that is accelerated.

The following table shows the threshold limitations, the number of AST payments, and total revenue accelerated under the current AST program, which began in 2010. The total revenue accelerated includes both General Fund and Non-General Fund revenue.

Year	Threshold	Number of AST Bills	Number of AST Payments	Total Revenue Accelerated
2010	\$1 million	12,206	10,667	\$279,340,862
2011	\$5.4 million	2,935	2,837	\$242,867,249
2012	\$26 million	613	601	\$193,885,235
2013	\$26 million	672	664	\$199,573,732
2014	\$48.5 million	332	332	\$175,287,579
2015	\$2.5 million	6,474	5,992	\$337,427,092
2016	\$2.5 million	6,779	6,401	\$361,362,398
2017	\$2.5 million	7,079	6,649	\$370,350,743
2018	\$4.0 million	4,786	4,476	\$359,474,123

Prior to 2010, AST was utilized for tax years 2002 through 2006. Below are the threshold values for those years.

Year	Threshold
2002	\$1.3 million
2003	\$1.3 million
2004	\$1.3 million
2005	\$1.3 million
2006	\$50 million
2007	AST Eliminated

The Department may waive the AST requirement or allow dealers to pay a lesser amount upon a finding that the accelerated payment requirement would cause an undue hardship. Circumstances that might lead to such a waiver include the sale or closing of a significant part of a business, or substantial decline in sales since the previous June.

Revenue Analysis

The table below shows how different AST threshold values affect projected General Fund revenues accelerated, and the number of dealers affected if the threshold were adjusted for the 2019 AST payment.

Threshold (Annual Sales)	Fiscal Year 2019 General Fund Revenue	Total Dealers
\$4 Million or More	\$222,500,000	3,135
\$5 Million or More	\$215,500,000	2,545
\$6 Million or More	\$209,100,000	2,120
\$7 Million or More	\$203,900,000	1,828
\$8 Million or More	\$199,500,000	1,618
\$9 Million or More	\$195,500,000	1,468
\$10 Million or More	\$191,500,000	1,322
\$15 Million or More	\$177,500,000	888
\$20 Million or More	\$167,500,000	669
\$30 Million or More	\$153,200,000	440
\$40 Million or More	\$140,800,000	306
\$50 Million or More	\$133,100,000	240
\$60 Million or More	\$126,600,000	199
\$70 Million or More	\$120,700,000	161
\$80 Million or More	\$116,200,000	137
\$90 Million or More	\$114,400,000	127
\$100 Million or More	\$92,100,000	57
\$500 Million or More	\$63,800,000	17
\$1 Billion or More	\$47,300,000	8

Online Filing System

The workgroup was asked to establish a cost estimate and timeline for the Department to implement an easy online application for dealers to apply for the hardship exception.

The Department currently allows dealers to apply for a waiver by submitting a brief explanation of why the dealer qualifies for a waiver. Most waiver requests are sent to the

Department by fax or email. The Department typically handles waiver requests in one or two business days.

The greatest number of waiver requests received in a single year was 108 requests in 2010, when the threshold was only \$1 million. Since 2011, the most requests received in a single year was 31 requests. Given the small number of waiver requests, the costs of developing a true online filing system, like the Free File income tax filing application, would be cost prohibitive.

The workgroup provided suggestions for a process whereby dealers would be able to apply for a complete or partial hardship waiver and made the following recommendations:

- ▶ The Department should develop a fillable PDF form that dealers could download from the Department's website.
- ▶ The completed form could be transmitted to the Department by secure e-mail or by fax.
- ▶ If feasible given other potential system changes that may be required for the upcoming income tax filing season, the Department should implement the new process in time for the 2019 AST notification.
- ▶ The PDF waiver application form should be easily identifiable and accessible on the Department's website.
- ▶ The Department should notify each applicant that its waiver form has been received, so that dealers have confirmation that their waivers will be considered before the AST filing deadline.
- ▶ As with its current practice, the Department should strive to continue making determinations on waiver requests within two business days of receiving the waiver request and any additional information requested by the Department.

The Department anticipates that its costs to develop this application would be minimal and that the process could likely be implemented in time for the 2019 AST notification. The Department cautioned that systems changes necessary for the Taxable Year 2018 income tax filing season must take precedence and could impact its ability to implement such a process prior to the 2019 AST notification. As with the current procedure, the Department expects it would be able to make a determination on waiver requests within two business days.

Hardship Waivers

The workgroup was asked to determine whether the current AST hardship definition is adequate or can be expanded to include additional hardship scenarios. The Department currently accepts the following justifications for hardship waivers:

- ▶ Sale or closing of a significant part of business;
- ▶ Substantial decline in sales since the previous June;
- ▶ Extenuating circumstances, such as a major change in the dealer's business model;
- ▶ Out-of-state dealer who no longer makes sales in Virginia; or
- ▶ The dealer is primarily liable for AST because of a one-time extraordinary event in the previous fiscal year.

The decision regarding whether to grant a waiver is based on the data provided by the taxpayer showing a change in sales from one year to the next and not necessarily on the underlying reason for the change. Additionally, the Department will generally grant a partial waiver in cases where a full waiver is not warranted, provided the dealer's sales data supports a reduction in its AST liability.

The workgroup determined that, as the current grounds for qualifying for a hardship waiver or reduced payment are broadly interpreted by the Department, no additional grounds are needed. The Department agreed to ensure that the waiver justifications would be clearly explained on its website and on the new waiver form.

Notice

The workgroup was asked to make recommendations regarding earlier notice of the AST requirement to dealers.

The AST threshold is set through the budget process. Dealers affected by AST receive an annual notification from the Department regarding the upcoming payment. In 2018, initial notifications were mailed on April 17, and a second round of notifications, which included payment vouchers, was mailed on May 17.

Workgroup participants were provided copies of the two notification letters and were given the opportunity to make any suggestions regarding language and timing. (See Appendix B and Appendix C). The workgroup expressed concerns that waiver language be included in the notifications and the Department agreed to update the existing language.

The business community expressed its concern that businesses be given adequate time to ensure that they can comply with the AST payment. As AST is a change to businesses' normal reporting timeline, business owners need to make adjustments to accommodate the accelerated payment. The workgroup also discussed the fact that the completion of the General Assembly session and the budget process put constraints on the Department's timing of notices to dealers regarding AST. Another issue raised was that notices mailed too far in advance may be forgotten or lost, defeating the purpose of providing the notice. Accordingly, the workgroup is unable to make a specific recommendation as to the timing of notifications.

Late Payment Penalty

The workgroup was asked to assess the equity of the current six percent penalty that applies to late AST payments.

Under existing law, a dealer who fails to timely pay the full amount of sales tax is subject to a penalty equal six percent per month, not to exceed thirty percent in the aggregate. This penalty is assessed in cases where a dealer fails to make a timely AST payment. Delinquent payments are only assessed one month's worth of penalty (six percent) provided that the June collections are remitted on or before the regular July 20th filing date. Dealers who fail to make timely AST payments would only be subject to a penalty in excess of six percent if they fail to file by the regular due date that applies regardless of the AST

requirements. In 2018, 310 affected dealers did not pay AST and were assessed a late payment penalty.

One suggestion raised by the business community was allowing waivers of the penalty for first-time filers upon request. The category of first-time filers would include new dealers and dealers who have recently exceeded the AST threshold for the first time. It was suggested that some in the business community are unaware of AST or do not fully understand it.

Based on past experience, the Department estimated that this would result in the waiver of up to \$45,000 in penalties annually. While this is not substantial by itself, the General Assembly should consider the impact such a policy would have on revenues, especially in years when the threshold is decreased. A penalty waiver would effectively delay the revenue increase by one year to the extent that new dealers do not comply with the AST requirement until the second year when the penalty is imposed. For example, if all newly impacted dealers were aware of a first-time penalty waiver in 2015 when the AST threshold fell from \$48.5 million to \$2.5 million, this could have reduced FY 2015 revenues by more than \$150 million, thereby limiting the ability of the General Assembly to accelerate revenues in a timely fashion.

Because of the potential revenue implications, the workgroup was unable to make a specific recommendation on this issue.

Phase Out of AST by 2022

The workgroup was asked to study the impact to the Commonwealth of phasing out AST by Fiscal Year 2022. The business community has repeatedly stated that the phase-out of AST is a top priority for them.

The elimination of AST would result in a negative General Fund revenue impact to the Commonwealth of \$222.5 million at the current \$4 million threshold for the fiscal year in which the AST is eliminated. If AST is phased out, the impact to the Commonwealth would vary based on the threshold amount previously provided in the budget for the fiscal year.

Increasing the threshold by an incremental amount would have a smaller impact. For example, the business community suggested increasing the threshold to a level between \$10 and \$20 million, with \$15 million being the most commonly mentioned threshold. Increasing the threshold from its current level of \$4 million to a threshold of \$15 million would have a negative General Fund revenue impact of \$45 million.

The following table shows the General Fund revenue impact of increasing the AST thresholds, as well as the number of dealers impacted at each level.

Threshold (Annual Sales)	Fiscal Year 2019 General Fund Revenue	Change in Revenue Compared to Current Threshold	Dealers Affected	Change in Dealers Compared to Current Threshold
\$4 Million or More	\$222,500,000	-	3,135	-
\$5 Million or More	\$215,500,000	(\$7,000,000)	2,545	(590)
\$10 Million or More	\$191,500,000	(\$31,000,000)	1,322	(1,813)
\$15 Million or More	\$177,500,000	(\$45,000,000)	888	(2,247)
\$20 Million or More	\$167,500,000	(\$55,000,000)	669	(2,466)
\$30 Million or More	\$153,200,000	(\$69,300,000)	440	(2,695)
\$40 Million or More	\$140,800,000	(\$81,700,000)	306	(2,829)
\$50 Million or More	\$133,100,000	(\$89,400,000)	240	(2,895)
\$100 Million or More	\$111,800,000	(\$110,700,000)	117	(3,018)
\$500 Million or More	\$63,800,000	(\$158,700,000)	17	(3,118)
\$1 Billion or More	\$47,300,000	(\$175,200,000)	8	(3,127)

Threshold Limitations

The workgroup was asked to study the ability of the General Assembly to lower the AST threshold by more than 10 percent in one year when the threshold is at \$15 million or less.

The number of dealers affected and the amount of revenue accelerated is directly correlated to the threshold level. During the current AST program, which began in 2010, the threshold has been as low as \$1 million and as high as \$48.5 million. Because unpredictability is a threat to business viability, merchants are seeking a more stable threshold level. Specifically, they propose restrictions on changes to the threshold and request that the threshold be kept above a range of \$15 to \$20 million.

The following table shows how the threshold level has changed since 2010, including the percentage change each year.

Year	Threshold	% Change	Total Revenue Accelerated
2010	\$1 million	-	\$279,340,862
2011	\$5.4 million	440%	\$242,867,249
2012	\$26 million	380%	\$193,885,235
2013	\$26 million	-	\$199,573,732
2014	\$48.5 million	93%	\$175,287,579
2015	\$2.5 million	(95%)	\$337,427,092
2016	\$2.5 million	-	\$361,362,398
2017	\$2.5 million	-	\$370,350,743
2018	\$4.0 million	62%	\$359,474,123

By way of comparison to the current AST program, the chart below demonstrates how much the AST threshold could change if it were limited to a ten percent adjustment annually.

Threshold	Ten Percent Limitation	Number of Years to Reduce Threshold by \$5 Million
\$15 million	\$1.5 million/year	3 Years
\$10 million	\$1 million/year	6 Years
\$5 million	\$500,000/ year	N/A
\$4 million	\$400,000/year	N/A

The workgroup determined that there is currently no restriction on the ability of the General Assembly to lower the AST threshold by more than 10 percent in one year when the threshold is at \$15 million or less. Limiting the percent by which the AST threshold could be raised or lowered, however, would affect the amount of revenue that is accelerated. If the adjustment of the threshold were limited to a certain percentage, it would restrict the amount of revenue that could be accelerated in a given year.

Accelerated Sales Tax in Other States

The workgroup was asked to discuss alternatives and limitations to the current AST requirement and other issues related to sales tax that it deemed appropriate, including

semimonthly remittance of sales tax as an alternative. Several states have an accelerated sales tax or prepayment schedule. The workgroup reviewed alternatives and limitations to the current AST requirement, including semimonthly remittance of sales tax and prepayment schedules but could not specifically recommend any of these alternatives. The table below is a representative sample of different approaches taken by other states.

State	Accelerated Due Date	Annual Sales Threshold	Accelerated Payments
Alabama	Monthly on 20th	\$750,000	If dealers have average monthly state sales tax of \$2,500 or greater during the preceding calendar year, they must make a monthly accelerated payment
Arkansas	Semi-Monthly	\$2.4 million	Dealers must remit 80% of the tax for the current month by the 24th of the month
Arizona	June 20 th	\$1 million	One half of the actual tax liability from the month of May; or the actual tax liability from June 1 through June 15.
California	Semi-Monthly	\$0.2 million	In 8 different months, dealers must remit 90% of the tax for the current month by the 24 th of the month
Florida	Semi-Monthly	\$3.0 million	Dealers must remit 60% of the tax for the current month by the 20 th of the month
Georgia	Monthly on 20 th	\$1.5 million	The amount of prepaid tax is 50% of the dealer's average monthly state tax payments for the last calendar year
Iowa	Semi-Monthly	\$0.9 million	Dealers must remit tax for the first 15 days of the month by the 25 th of the month
Kansas	Monthly on 25 th	\$615,000	First 15 days liability is due on or before the 25th of that month.
Michigan	Semi-Monthly	\$12 million	Dealers must make a prepayment equal to 75% of the previous month's liability by the 20 th of the month
Minnesota	June 28 th	\$3.4 million	Dealers must make an accelerated payment equal to 81.4% of May, June, or average monthly liability by June 28
West Va.	June 20 th	\$19 million	Dealers must remit tax for the first half of June by June 20

Appendix A

VIRGINIA STATE BUDGET

2018 Session

Budget Bill - HB5002 (Chapter 2)

Bill Order » Office of Finance » Item 272

Department of Taxation

Item 272

D. The Department of Taxation shall convene a workgroup to examine the provisions related to the timing of payments and return filings required of registered dealers pursuant to §§ 58.1-615 and 58.1-616, Code of Virginia, and § 3-5.06 of this act. The workgroup shall establish costs and a timeline for the Department of Taxation to implement an easy online application provided by the Department of Taxation for dealers to apply for the hardship exception and determine whether the current hardship definition is adequate or could be expanded to include additional hardship scenarios. The workgroup should make recommendations to the Department of Taxation about providing earlier notice to dealers of accelerated sales tax payments, the equity in assessing monthly 6 percent late payment penalty fees, how the state would be impacted by options to phase-out the accelerated sales tax by fiscal year 2022, and the ability of the General Assembly to lower the accelerated sales tax threshold by more than 10% in one year when threshold is at \$15,000,000 of annual taxable sales or less. The workgroup shall consider alternatives and limitations to the current accelerated sales tax requirement and shall examine other sales tax-related issues, including bi-monthly remittance of sales taxes as an alternative. The workgroup shall include the staffs of the House Appropriations and Senate Finance Committees, the Secretary of Finance or his designee, the Office of the Governor and representatives from affected businesses and industries. Additional staff support shall be provided by the Department of Taxation and the Division of Legislative Services upon request. The workgroup shall begin meetings in the month of May and meet no less than three times and complete its meetings by November 30, 2018, and shall submit to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees and all members of the House Appropriations and Senate Finance Committees a report of its findings and recommendations no later than the first day of the 2019 Regular Session of the General Assembly.

Appendix B

2018 First AST Notice



Commonwealth of Virginia

Department of Taxation

ACCELERATED SALES TAX PAYMENT REQUIREMENTS

LETTERDATEPLUS2

ADDRRECIPIENT
ADDRRECIPIENT2
ADDRLINE1
ADDRLINE2
ADDRLINE3

Re: Virginia Tax Account Number(s) TAXACCTNUMBERS

Why you are receiving this letter...

This letter is to notify you that you are required to make an accelerated sales and use tax payment for the month of June 2018.

What's next...

- Before June 1, you will receive another letter showing the amount you will need to pay along with instructions on how to make your payment.
- Your payment amount due will be 90% of your June 2017 tax liability.
- Accelerated sales tax payments made electronically are due June 30. Since June 30, 2018 is a Saturday, electronic payments will be considered timely if received by Monday, July 2, 2018. All other payments are due June 25.

Important information...

- Do not combine the accelerated June payment with your May payment.
- Pay in full on or before the due date to avoid the 6% penalty for late payment.
- Once you receive your payment amount letter, you must pay online using eForms, your iFile account, or by ACH Credit (unless you have an accelerated sales tax electronic payment waiver).
- Your June 2018 sales tax return and any remaining June tax payment (above what you paid in your accelerated payment) will be due on July 20, as usual.
 - If your actual June tax liability is less than the amount of your accelerated payment, the overpayment will be credited to your July tax liability.
 - If you are still overpaid after you file your July return, we will refund the remainder.

For more information about the accelerated sales tax and payment options, review the back of this letter and visit our website at www.tax.virginia.gov/AST.

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Appendix B

2018 First AST Notice (Continued)

Information about Accelerated Sales Tax Payments

As a result of legislation first passed by the 2010 Virginia General Assembly, Virginia requires dealers meeting specific requirements to make accelerated sales and use tax payments for the month of June each year.

For 2018, the accelerated payment requirement applies to dealers who reported total taxable sales and purchases of \$4 million or more for the 12-month period ending June 30, 2017. This requirement is based on aggregate sales for all locations, regardless of the number of returns filed by the dealer.

Payment Options

- **Online Services** – We offer free, secure online filing and payment services. You can schedule your payment in advance at www.business.tax.virginia.gov.
 - eForms look similar to the paper versions of returns. No login or password is required. Use the electronic Form ST-APC and fill in the required fields.
 - **Business iFile** allows you to manage your tax accounts, file your returns, and pay your state taxes all from one location. When you log into your Business iFile account, you will be provided with instructions on making your accelerated sales tax payment.
- **ACH Credit** – To use ACH Credit, contact your financial institution to make arrangements to credit the state's bank account with funds from your bank account. Your financial institution will tell you what ACH origination services it offers and any associated costs. Be sure to check your bank's schedule for payment processing to ensure we receive your payment by the due date. Make sure you instruct your bank to identify the payment as being for the **period ending June 30, 2018**. For additional information about using ACH Credit, review a copy of the Electronic Payment Guide on our website at www.tax.virginia.gov.
- **If you have an electronic filing waiver and you are submitting your payment by paper check:**
 - Use the voucher included in your payment amount letter.
 - Mail it separately from any other returns or payments and only to the specific address we provide.
 - Make sure it is postmarked by June 25, 2018.
 - Use first class mail (certified mail causes delays).

Questions? Visit www.tax.virginia.gov/AST.

Appendix C

2018 Second AST Notice (Continued)

Accelerated Sales Tax and Reconciliation Instructions

STEP 1 – Make your Payment Timely

Electronic Funds Transfer: Payments submitted using Electronic Funds Transfer ("EFT") are due by June 30, 2018. There are 2 options available for submitting your payment electronically:

1. **Online Services** – We offer free, secure online filing and payment services. You can schedule your payment in advance for June 30, 2018 at www.business.tax.virginia.gov.
 - **eForms** look similar to paper versions of returns. No login or password is required. Use the Electronic Form ST-APC and fill in the required fields.
 - **Business iFile** allows you to manage your tax accounts, file your returns, and pay your state taxes all from one location. When you log into your Business iFile account, you will be provided instructions on making your accelerated tax payment.
2. **ACH Credit** – To use ACH Credit, contact your financial institution for information on ACH origination services it offers and any associated costs. Check your bank's schedule for payment processing to ensure your payment is received by June 30, 2018. Instruct your bank to identify the payment as being for the period ending June 30, 2018. For additional information see the Electronic Payment Guide at www.tax.virginia.gov.

Paper Check: Payments submitted by paper check are due June 25.

1. Use the voucher and return envelope provided in this mailer.
2. Do not include other returns or payments in the envelope with your accelerated payment and voucher.
3. Mail your payment to the address shown below.

STEP 2 – File Your June Tax Return by July 20, 2018

1. Complete your regular sales and use tax return exactly as if you had not made an accelerated payment.
2. Compute your tax liability without regard to the accelerated payment and enter the amount on your Retail Sales and Use Tax return as normal. If you are submitting a paper Virginia Retail Sales and Use Tax return, enter your net tax liability.
3. Determine the amount of tax you need to submit with your return as follows:
 - A. Enter your June net tax liability (tax liability minus allowed dealer's discount): A. _____
 - B. Enter the amount you submitted as your accelerated sales and use tax payment: B. _____
 - C. Subtract B from A and enter the difference: C. _____

If B is greater than A, you owe no tax with your June 2018 tax return. Any overpaid amount will be carried forward to July and applied to your July tax liability. After you file your July return, if any amount is still overpaid, we will issue you a refund. If A is greater than B, then pay only the difference when you file your June return. If filing a paper return, write "AST" across the top of the return.

Make sure this address shows through
the window of the envelope.



VIRGINIA DEPARTMENT OF TAXATION
ACCELERATED SALES AND USE TAX
P.O. BOX 26627
RICHMOND, VA 23261-6627

Appendix D

Accelerated Sales Tax (AST) Workgroup – Cumulative Attendee List

<u>First Name</u>	<u>Last Name</u>	<u>Organization</u>
Kate	Baker	Virginia Retail Federation
Craig	Burns	Department of Taxation
Stuart	Carter	Department of Taxation
Kristin	Collins	Department of Taxation
Connor	Garstka	Department of Legislative Services
Petrina	Jones	Virginia Retail Merchants Association
Charles	Kennington	Senate Finance Committee
April	Kees	Senate Finance Committee
Stephen	Klos	Department of Taxation
David	Machlan	Virginia Society of CPAs
Keith	Martin	Virginia Chamber of Commerce
Joseph	Mayer	Department of Taxation
Nicole	Riley	National Federation of Independent Businesses
Jodi	Roth	Virginia Retail Federation
Barbara	Toellner	Department of Taxation
Vanessa	Vinoles	Department of Taxation
Brittany	West	Hunton Andrews & Kurth
William	White	Department of Taxation

Appendix E



December 11, 2018

Steve Klos
Policy Analyst
Office of Tax Policy, Policy Development Division
Virginia Department of Taxation
Post Office Box 27185
Richmond, Virginia 23261-7185

Dear Mr. Klos,

On behalf of the Virginia Retail Merchants Association members, thank you for the opportunity to submit comments to the Report of the 2018 Accelerated Sales Tax Workgroup. Virginia Retail Merchants Association represents retailers of all sizes, small, mid-size and large, across the Commonwealth.

Members of the Virginia Retail Merchants Association advocate for a total phaseout of accelerated sales tax policy in Virginia. We maintain this is not only a matter of fairness to the retailers, i.e. the sales tax collectors, but also that the tax policy itself may be used as a gimmick to balance the budget.

In the interim of eliminating the threshold altogether, we ask that restrictions are placed on changes to the threshold to establish predictability for small and mid-size businesses. From 2002 to 2006, the threshold was in place at \$1.3 million. In 2006, the threshold was increased to \$50 million and finally eliminated in 2007. In 2009, however, the General Assembly enacted changes that required dealers with annual sales of \$12 million or more to file and remit semi-monthly. This requirement was repealed before it took effect. Consequently, in 2010, the General Assembly reinstated accelerated sales tax payments at the \$1 million threshold, again requiring dealers to pay 90% of the dealer's liability for the previous June. In 2011, the threshold was lifted to \$5.4 million. In 2012 and 2013 it was lifted to \$26 million. By 2014, the threshold reached \$48.5 million but was lowered in 2015, 2016 and 2017 to \$2.5 million. Now, in 2018, the threshold stands at \$4 million. VRMA asks that the threshold never go below \$20 million as this affects small and mid-size retailers that typically operate on a 1-3% profit margin. The current threshold of \$4 million affects approximately 3,135 dealers. Increasing the threshold to \$20 million would eliminate these payments for approximately 2,466 dealers. Stabilizing the threshold would not only remove this burden on small and mid-size retailers, but also create a standard of expectation on all retailers, existing and prospective.

New retailers paying the accelerated sales tax or existing dealers paying the threshold for the first time may not have planned or realized they would be required to make the payment. However, if they fail to make the payment they are charged a 6% penalty fee. We suggest allowing a waiver upon request for new retailers or first-time filers.

Retailers experiencing a hardship would benefit from easy online accessibility to a fillable PDF waiver application and guidance in preparing the application. Efforts on behalf of the Department to confirm receipt of the waiver application submitted by a retailer would be helpful. An example of a hardship situation would be a significant decrease in sales due to a catastrophic event that closed the business for an extended period of time. We appreciate the Department's willingness to address matters related to the hardship waivers.

Thank you for your service and hard work on behalf of the members of Virginia Retail Merchants Association.

Sincerely,

Petrina Jones Wroblewski
Director of Government Affairs

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