Virginia Department of Planning and Budget

Economic Impact Analysis

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Virginia Alcoholic Beverage Control Authority
Town Hall Action/Stage: 6174 / 9907
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The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented below represents DPB's best estimate of these economic impacts.[1]

Summary of the Proposed Amendments to Regulation

The Virginia Alcoholic Beverage Control Board of Directors proposes to update the regulatory text to reflect the current practice of accepting credit and debit card payments for taxes, fees, penalties, charges, and costs.

Background

The Virginia Alcoholic Beverage Control Authority (Authority) had been accepting payments for taxes, fees, penalties, charges, and costs only in cash and cash equivalents (i.e., money order, check, wire transfer) until January 1, 2022. On that day, the Authority started accepting payments for taxes, fees, penalties, charges, and costs through the Authority's online licensing system which only accepts credit and debit cards. Therefore, the licensees and permittees have had an additional option to make such payments to the Authority by credit or debit cards in addition to cash and cash equivalents since January 1, 2022. The proposed

[1] Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

amendment reflects in the text of the regulation the Authority's current ability to accept such payments through the Authority's online licensing system.

Estimated Benefits and Costs

Presented with an option to pay taxes, fees, penalties, charges, and costs by credit or debit cards, some licensees would start making payments by those means rather than cash or cash equivalents. Any use of cards would substitute the payments that would have been otherwise made in cash or cash equivalents. The Authority does not charge any fees or surcharges for use of cards for payments. Thus, there is no additional cost to the licensees and permittees who use this additional option. However, the use of services offered by card companies is not free. Generally, there are merchant fees also known as interchange fees per transaction plus a commission as a percentage of the payment amount.

The Authority utilizes the Virginia Department of the Treasury's statewide contract for these types of card transactions. The Treasury's contract includes hundreds of fee cells depending on the card user's credit rating, the type of the card (e.g., Visa, Mastercard, American Express, Discover, etc.), the company issuing the card (e.g., banks), and various other factors. Although fees are highly variable within small margins, the Treasury reports contract fees being 1.5 cents per transaction and a commission rate of between 1.6 to 3.5 percent of the payment amount, approximately 2 percent being the statewide average. The contract is with a single entity, but the contractor can serve cards issued by different companies. In other words, the Authority periodically receives an aggregate invoice for all transactions from a single entity for interchange fees rather than receiving invoices from every single card issuer.

The Authority's review of fiscal year 2022 financial records shows that collections were $69.4 million for malt beverage and wine liter tax, $17.1 million for license and permit fees, $4.5 million for wine wholesaler tax, and $253 thousand for penalties, all totaling $91.3 million involving 1,974 transactions and $46,275 payment on average per transaction. Additionally, the Authority's interchange costs are estimated to be 1.61 percent of the total payments overall.[2] Further, the Authority reports that one year after it has started accepting card payments, the percentage of card payments are nearing 25 percent of the $91.3 million total but will likely

[2] The Authority does not have a breakdown of the 1.61 percent overall estimate between credit card and debit card payments or between per transaction and percentage-based interchange fees.

continue to increase. Based on these factors, the interchange costs could be estimated to be as follows: $365,700 if 25 percent of the total payments are paid by card, $733,439 if card usage reaches 50 percent, and $1,100,159 if the card usage reaches 75 percent.

On the other hand, expanded use of credit and debit cards would likely reduce the Authority's administrative costs associated with processing cash and cash equivalents. Checks can be mailed to nine locations, where there are a total of 21 cashiering staff, and each cashier processes payments for, on average, approximately six hours per day, 365 days a year. At a $15.32 hourly rate, the annual cost of processing cash and cash equivalents equates to $704,567.[3] As additional payments are made by cards, a decreasing amount of staff time would be required to process cash and cash equivalents, which would offset some of the interchange costs inherent in card transactions.

If the administrative cost savings are assumed to be linearly related to the percent of transactions that use cards, the 25 percent card usage combined with the 25 percent administrative savings would produce $189,558 (i.e., $365,700 minus 0.25*$704,567) as the net marginal cost per year; at 50 percent card usage, the net marginal cost would be $381,156 ($733,439 minus 0.50*$704,567); and at 75 percent usage, the net annual marginal cost would be $571,733 ($1,100,159 minus 0.75*$704,567). In reality, however, interchange costs and administrative cost savings would not likely be linearly related because interchange costs are largely driven by the percent fee of the payment amount rather than the number of transactions; likewise, the administrative costs are largely driven by the number of transactions rather than the payment amount. For example, a large transaction such as a $1 million payment would create $16,100 in interchange fees but may translate to only a few hours of staff time in savings. However, this asymmetrically adverse effect of large card transactions on net marginal cost would be limited as most large transactions would likely be continued to be made by checks or wire transfers rather than cards. Although there may be significant uncertainty regarding the exact amount of net marginal cost, any net increase in payment processing costs would reduce the Authority's operating profits and consequently reduce the revenues of the Commonwealth by the same amount.

[3] $704,567 =$15.32 per hour x 6 hours per day x 21 employees x 365 days. Source: the Authority.

The Authority envisions that the staff time that would no longer be needed for check processing would likely be redirected to other responsibilities within the agency. To illustrate: at 25 percent card usage, 11,498 hours of cashiering staff time per year would be redirected to other duties; at 50 percent card usage, 22,995 hours of cashiering staff time per year would be available for other purposes; and at 75 percent card use, the number of hours of staff time savings would be 34,495.

The Authority maintains that the main intent for accepting card payments is to improve licensee and permittee customer service, although it would result in a net increase in operating costs. As mentioned above, when a licensee or permittee makes a card payment for the stated amount of fees, taxes, or costs, the payment is considered to be made in full even though the net revenues from that transaction are less than the full amount because of the interchange costs involved. In essence, there is no additional cost to the payor. However, the licensee or permittee of the Authority would reap all the benefits of the card option. These benefits may include the avoidance of time that would be required to deliver cash to one of the nine locations; avoidance of time that would be spent on writing a check, mailing, or delivering it to a processing center, and the time it would take for the check to clear; and the ability to pay with credit if short on cash. All of these conveniences associated with card payments are available to the licensees and permittees at no cost. Moreover, the Treasury's statewide card contractor would likely see additional revenues as calculated above as the card payments replace the payments by cash or cash equivalents.

Finally, the proposed language would provide consistency between the current practices and the text of the regulation. Inconsistencies between regulation and actual practice have the potential to create confusion in the regulated community and this change would likely help prevent any confusion and inform licensees of all their options when it comes to making a payment to the Authority.

Businesses and Other Entities Affected

The proposed amendments allow a licensee to pay fees, taxes, or costs to the Authority by a credit or debit card. Currently, there are 21,252 licensees and 1,974 transactions per year involved in such payments. None of the licensees appear to be disproportionately affected.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[4] An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As noted above, the Authority itself and consequently the Commonwealth would suffer some revenue losses as result of interchange fees that would have to paid to the statewide card processing contractor under the Treasury's contract. Thus, an adverse impact is indicated.

Small Businesses[5] Affected:[6]

The Authority does not track which of the affected licensees would qualify as a small business. However, the proposed amendments do not appear to adversely affect any businesses including small businesses.

Localities[7] Affected[8]

The proposed amendments do not disproportionally affect any particular localities and do not introduce direct costs for local governments.

Projected Impact on Employment

The proposed amendments appear to increase the utilization of the services of the statewide card contractor and its demand for labor. However, whether if that contractor has any employees in Virginia is not known. The amendments also appear to free up some time of the licensees and permittees or the workers who may be handling payments on their behalf. The

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[4] Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

[5] Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million."

[6] If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

[7] "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

[8] § 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

amendments further appear to reduce the Commonwealth's revenue collections which may or may not lead to a reduction in the state's demand for workers.

Effects on the Use and Value of Private Property

The newly added card payment option would primarily benefit the statewide card processing contractor in terms of additional revenues which should add to the asset value of its business. The proposed amendments do not affect real estate development costs.