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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	Department of Taxation
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	23 VAC10-210
<b>VAC Chapter title(s)</b>	Retail Sales and Use Tax
<b>Date this document prepared</b>	January 10, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

## Acronyms and Definitions

*Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

Not Applicable

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

Code of Va. § [58.1-203](#) authorizes the Tax Commissioner to issue regulations relating to the interpretation and enforcement of the laws governing taxes administered by the Department of Taxation. Code of Va. § [58.1-601](#) authorizes the Department of Taxation to administer the Retail Sales and Use Tax.

**Alternatives to Regulation**

*Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.*

No viable alternatives to the regulation were identified. The regulation, as currently written, is effective in achieving its purposes. The regulation is the least burdensome alternative to set forth the policies and procedures of the Department.

**Public Comment**

*Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency’s response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

Commenter	Comment	Agency response
Not Applicable		

**Effectiveness**

*Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.*

The Department of Taxation has determined that the regulation is necessary for the administration of taxes and thus necessary for the protection of public health, safety, and welfare. The Department has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

**Decision**

*Explain the basis for the promulgating agency’s decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

*If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.*

Although the Department of Taxation has amended this chapter in several actions filed in 2006-2010 and in 2016 to conform the regulation to statutory changes and changes in the Department’s procedures and policies, the Department needs to amend it to conform it to statutory changes enacted in the 2017 and 2019 legislative sessions.

**Small Business Impact**

*As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.*

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The regulation provides useful guidance to taxpayers, tax practitioners, and Department of Taxation employees regarding the tax. The regulation continues to be necessary to clarify the administration of the tax. The Department has received no complaints or comments from the public concerning the regulation. The regulation is not complex. The regulation does not overlap, duplicate, or conflict with federal or state law or regulation. The Department is not aware of any technology, economic conditions, or other factors that have changed in the area affected by the regulation. As the regulation is concise and up-to-date, except with respect to the need to conform it to statutory changes enacted in the 2017 and 2019 legislative sessions, the regulation has no economic impact on any businesses, including small businesses.

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