

Commission on Local Government
Estimate of Local Fiscal Impact

2019 General Assembly Session

Bill: HB2640

Patron: Byron

Date: 1/20/2019

In accordance with the provisions of §30-19.03 of the Code of Virginia, the staff of the Commission on Local Government offers the following analysis of the above-referenced legislation:

Bill Summary:

Machinery and tools tax; definition of original total capitalized cost. Provides that, for purposes of the machinery and tools tax, "original total capitalized cost," which is used to calculate assessed value, means the property's cost when acquired by the current owner plus any amount incurred to extend its useful life. If the property was not acquired in an arm's-length transaction, the prior owner's original total capitalized cost is used. Acquisitions are presumed to be arm's-length unless the current owner bought the property from an affiliate.

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**Executive Summary:**

Localities have evaluated a negative fiscal impact ranging from \$0.00 - \$1,000,000.00. A majority of localities noted that the impact of the bill is indeterminate, however they noted that the bill could have significant fiscal impact, and the reduction of revenue could be at least 25% - 30% of their total Machinery and Tools revenue. Localities also noted the bill could require additional staff. Some localities raised concern that the bill could potentially open loopholes, complicate the assessment process, alter long-held legal interpretation for terms such as "original cost," and produce assessments below fair market value. Additionally, one locality noted that businesses already have the opportunity to present independent appraisals for such equipment. One locality noted that they charge a de minimis machinery and tool tax rate that it does not collect due to the expense of collection exceeding the revenues that may be received.

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**Local Analysis:**

**Locality:** Augusta County

**Estimated Fiscal Impact:**

\$1,000,000.00

County is opposed to this bill. The change would create inequity among taxpayers who own the same item. The ones who were 1st buyers would pay more than others who purchased in subsequent buys.

In our current economy many companies reorganize and severely write down their assets. It would really hit MandT tax hard. Revenues from MandT tax are approximately \$4 million, significant to the County's revenue stream.

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Locality: City of Danville

Estimated Fiscal Impact: \$0.00

\$0 is estimated as there is no way to make a hard estimate. However, anytime someone else besides the Commissioner of Revenue is making the assessment, there is the potential that it will not reflect a fair market value.

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**Locality:** City of Harrisonburg

**Estimated Fiscal Impact:** \$0.00

Not able to estimate financial impact. This change in the definition of original cost would impact revenue but is very hard to determine exactly how much because it would take a change of ownership before this would come into play.

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Locality: City of Lynchburg

Estimated Fiscal Impact: \$150,000.00

We are aware, per the Commissioner of the Revenue of one (1) manufacturer in Lynchburg that this would apply to. The cost to the City could be in excess of \$150,000 for this one manufacturer. There are possibly other manufacturers that we are not aware of in this area. The estimated impact is based upon knowledge of the original and new costs for this manufacturer.

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**Locality:** City of Martinsville

**Estimated Fiscal Impact:** \$1.00

I don't have an estimate or opinion on this one. We have so little MandT taxable currently, I can't imagine this having much impact.

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Locality: City of Norfolk

Estimated Fiscal Impact: \$0.00

The impact of this bill is estimated to be significant although it is difficult to quantify. There are a few concerns that arise from the bill. One concern is the language in this bill potentially opens loopholes for disregarded entities such as LLCs as well as similar businesses reorganizing and reselling to each other. Another concern is the D(2) portion does not make sense adding difficulty to analyzing the bill. Also, the language may result in machinery and tools being valued at below fair market value. Businesses currently have the option of presenting a bona-fide independent appraisal. Lastly, if this legislation goes into effect, there is the concern that the definition could be applied to other property classifications which would have a significant impact.

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**Locality:** City of Virginia Beach

**Estimated Fiscal Impact:** \$0.00

The City of Virginia Beach charges a de minimis machinery and tools tax rate that it does not collect due to the expense of collection exceeding the revenues that may be received. Therefore, our machinery and tools tax is essentially zero, and no changes to the definitions as a result of this bill will impact our revenues.

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Locality: City of Winchester

Estimated Fiscal Impact: \$475,000.00

I recommend opposition to this bill for two reasons:

- It muddies the definition of "original cost" which has stood the test of time and been upheld repeatedly by the court (most recently in a very significant ruling regarding a large manufacturer). The loss of an established bright-line test complicates the assessment process, requiring additional manpower and increasing likelihood of resources required to address appeals.
 - This will further erode an essential local revenue source through the stipulation that the starting point for depreciation is a value which has already been significantly depreciated (i.e. double depreciation). Thinking about certain specific instances, the difference would have been 75% - 90% of the assessed value. It is challenging to estimate a revenue impact to the City, but easy to imagine revenue reductions of as much as 25% overall once certain taxpayers become aware.
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Locality: Fairfax County

Estimated Fiscal Impact: \$0.00

The bill would have a negative impact. If the definition of capitalized cost changes according to the bill, taxpayers would end up paying less than fair market value, resulting in a lower tax assessment. The bill would also make it more difficult to verify acquired cost. These changes could have a significant fiscal impact due to reduced tax assessments.



Locality: Henrico County.

Estimated Fiscal Impact: \$67,000.00

Estimate is based on a large factory taking advantage of this proposal and writing down the value of machinery and tools property by 30%.



Locality: Spotsylvania County

Estimated Fiscal Impact: \$0.00

We are unable to quantify the financial impact of this bill.



Locality: Town of Blacksburg

Estimated Fiscal Impact: \$0.00

The Town does not have a machinery and tool tax.

