

March 9, 2021

**VIA Email Only**

The Honorable Ralph S. Northam  
Office of the Governor  
P.O. Box 1475  
Richmond, VA 23218

Dear Governor Northam:

In 2020, your leadership was instrumental in providing Virginia localities with local option authority to implement a plastic bag tax and improve our environmental stewardship. However, before localities can consider establishing such a tax, along with the critical community engagement process that would precede the enactment of such authority, local governments need prompt and clear guidance from the Virginia Tax Commissioner, as required by the authorizing legislation.

The legislation enacted in 2020, HB 534/SB 11, authorizes Virginia localities to adopt an ordinance imposing a \$0.05 tax on disposable plastic bags provided by grocery stores, convenience stores and drugstores, with some exemptions. It provides in part that “[t]he Tax Commissioner shall develop and make publicly available guidelines implementing the provisions of this article” and that such guidelines shall be exempt from the provisions of the Administrative Process Act. However, the Policy Development Director of the Virginia Department of Taxation (TAX) has advised localities that TAX does not intend to develop and release guidelines implementing this legislation until at least one locality adopts an ordinance. This decision has raised a number of concerns among our local government members.

Waiting to develop and release guidelines until after a locality adopts an ordinance introduces uncertainty in the process. It potentially creates a situation where a locality enacts an ordinance after a thorough public process and extensive stakeholder input, only to discover afterwards that TAX is drafting guidelines that disallow some aspect of that carefully crafted ordinance. Such an outcome would be confusing to the public and an unproductive approach to the implementation of new local authority. As a result, we propose that localities work collaboratively with TAX in the development of appropriate guidelines to implement HB 534/SB 11, ensuring that the rules are clear before we begin any education and outreach efforts within our communities.

We urge you to direct the Tax Commissioner to immediately begin working with local governments to develop appropriate guidelines for publication, so that localities can confidently move forward on this important issue. Thank you for your leadership with this matter.

Sincerely,



P. David Tarter  
Chairman

cc: Craig M. Burns, Tax Commissioner