

## Gas Stations Skip Out on Sales Tax

Because of accounting error, hundreds of thousands of dollars in motor fuels sales tax revenue were lost.

By David Harrison

### **NVTA Begins**

The first meeting of the new Northern Virginia Transportation Authority will be held Wednesday July 18 at 7:30 p.m. in the Falls Church Community Center. The meeting was originally scheduled for July 11 but that date conflicted with the previously scheduled NVTC meeting. Several members will sit on both bodies.

The NVTA was created by the General Assembly last year to replace the Transportation Coordinating Council. If the sales tax referendum is approved in November, the NVTA will have billions of dollars to spend on transportation projects. Top elected officials from each Northern Virginia jurisdiction will sit on the NVTA as well as several gubernatorial appointees. Gov. Mark Warner has already appointed Alexandria resident J. Kenneth Klinge, the chairman of the Dulles Corridor Task Force and McLean resident Margaret Vanderhuy, the former chairman of the Citizens Advisory Committee for the Northern Virginia 2010 Transportation Plan.

Northern Virginia Transportation Commission member Kate Hanley, who also chairs the Fairfax County Board of Supervisors said the NVTC commissioners discussed disbanding the NVTC or absorbing it into the NVTA but decided against it. "It was found to be pretty complicated and expensive," she said.



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For the 14 years he has owned the Cedar Lane Exxon gas station on Lee Highway in Fairfax, Sam Darab has paid the 2 percent retail motor fuels sales tax on time.

Every two or three years, he said a state auditor will come to make sure he is doing everything right.

"They check us out, they audit," he said. "They did mine two times so far."

Darab added that both times the auditors found that he was managing his station "in the very best way."

The sales tax goes to the Northern Virginia Transportation Commission and is passed along to the Washington Metropolitan Area Transit Authority. The NVTC is the local body that oversees and funds WMATA.

LAST YEAR, the NVTC — composed of Fairfax County, Loudoun County, Arlington County, Alexandria, Fairfax City and Falls Church — collected \$18 million from the motor fuels sales tax. Gas stations sent the money to the Department of Transportation in Richmond which sent it back to the NVTC to fund WMATA operating and capital expenses.

But a failure of stations to register with the Department of Taxation and lapses in the audit process meant that several gas stations either paid the tax to the wrong jurisdiction or did not pay it at all.

MEMBERS OF THE NVTC and Virginia Tax Commissioner Kenneth Thorson said they thought the mistakes were unintentional.

"In almost all cases, it's out of ignorance," said Thorson. The sales tax, he said, "may have been something that somebody overlooked."

But state Sen. Richard Saslaw (D-35), the owner of an Amoco station in Springfield, disagreed. "You've got to be arriving from Mars if you don't know about this tax," he said.

He added that those stations that did not pay the tax "ought to get the living hell fined out of them." The Department of Taxation "ought to nail their ass to the wall," he said.

For Saslaw, the fact that tax department auditors missed these stations for so long is a sign that "they need to make wholesale changes down there."

Joseph Sveska, the owner of the Salona station in McLean, called the accounting errors "incredible."

"It's hard for me to believe there are people out there who aren't paying it," he said.

THE NVTC AND its counterpart, the Potomac Rappahanock Transportation Commission (PRTC), made up of Prince William County, Manassas and Fredericksburg, are the only Virginia entities to use motor fuels sales tax to fund transit.

According to the NVTC, two corporate-owned Exxon stations in Loudoun County did not register with the Department of Taxation and did not pay the sales tax for a period of three years, resulting in a loss of \$572,500 for the NVTC. The stations were charging the consumers for the sales tax but were not passing that money along to the Department of Taxation.

Other corporate-owned Exxon stations in Falls Church misrepresented their registration, sending \$314,000 in sales tax money to the PRTC rather than to the NVTC over a five-month period.

Also, two Costco stations were registered in the NVRTC when they were really located in the PRTC region, which resulted in a loss of \$252,000 for the PRTC over two years.

Neither the NVTC nor ExxonMobil could provide the names or addresses of the Northern Virginia stations.

The accounting errors are particularly troubling at a time when local jurisdictions have embarked in a collective effort to try to get more people to use public transit, said Kala Quintana, director of public outreach for the NVTC.

"As it is we're having a hard time meeting the transportation funding needs," Quintana said. "[The motor fuels sales tax] is a key part of that."

LOCAL ELECTED OFFICIALS who sit on the Northern Virginia Transportation Commission were surprised when they learned about the accounting mistakes by chance in April, according to Scott Kalkwarf, director of finance and administration for the Commission.

"The initial reaction was, 'why did it take so long for this to be discovered and how did it happen?'" he said.

"We would have preferred it hadn't happened," said Kate Hanley, chairman of the Fairfax County Board of Supervisors and an NVTC member.

Since then, the gas stations have rectified the mistakes, paying their overdue taxes with interest and penalties.

Jeanne Miller, a spokesperson for the ExxonMobil headquarters in Fairfax said the errors were due to flaws in an accounting system the company used. The system was supposed to flag stations that were misreported.

"The old system that we were using obviously had some glitches in it," she said.

The company has since modernized its system as part of a previously-scheduled update.

Miller said that the company also uses internal and external auditors based in Houston, Texas and Pennsylvania. But they were not

able to catch mistakes in a handful of stations when they are responsible for thousands of stations across the country, she added.

"Somehow there was a disconnect and I don't know how there was a disconnect," she said. "It must have slipped through the audits."

"We are working very diligently with a state of Virginia auditor to make sure that all of these mistakes are corrected," she said. "We are looking at the process that we had in place to figure out how we can make it better so that this type of thing doesn't happen again."

"We really try and make sure all of our business is ethical and upstanding," she said.

THE COMMISSIONERS met last month with officials from the Department of Taxation to try to come up with safeguards so that such an oversight does not occur again. They discussed the possibility of hiring more auditors to ensure that gas stations in Northern Virginia are complying with the law. There is currently one auditor serving the NVTC region and one serving the PRTC region. Their salaries and expenses, which total a little over \$100,000 a year, are not paid by the state but come directly from the motor fuels sales tax revenue.

"We realized there were very few auditors and we pushed them to have more auditors," said Christopher Zimmerman, NVTC chairman and chairman of the Arlington County Board of Supervisors.

But Tax Commissioner Kenneth Thorson said that increasing the number of auditors would not necessarily increase results.

The Department of Taxation has not yet reached a decision on how to address the problem.

The NVTC has also approved printing an information brochure to educate station owners about the tax.