Department of Finance and Administration

Legislative Impact Statement

Bill: HB1925
Bill Subtitle: TO PROVIDE FOR A CAP ON THE LOCAL SALES AND USE TAXES LEVIED AND COLLECTED ON SALES OF ALL-TERRAIN VEHICLES.

<u>Basic Change :</u>

Sponsor: Rep. Brown

HB1925 would amend Arkansas code provisions regarding local city and county sales taxes collected by retailers on all-terrain vehicles.

The proposal would establish a cap on the maximum portion of the sales price that would be subject to the local sales tax. Under the bill, city and county sales tax would apply to the first $2,500 of the receipts from the sale. Under current law, the retailer of ATVs collects state and local sales tax on the total sales price of the ATV unless the purchaser is entitled to a tax exemption as allowed in Arkansas law.

Arkansas is a member of the Streamlined Sales Tax Governing Board, joining with 23 other states to develop a system of simplifications for retailers in order to reduce compliance burdens for retailers when colleting sales taxes for multiple states and local governments throughout the United States. A requirement within the Streamlined Sales Tax Agreement is for state tax laws to not require retailers to administer caps and thresholds on sales transactions. An exception to this requirement applies to motor vehicles; aircraft; watercraft; and modular, manufactured and mobile homes. No other types of product sales are allowed for retailer tax cap administration. The proposal to require retailers to administer a cap on city and county tax on ATVs violates the Streamlined Sales Tax Agreement provisions.

This bill would effective on the first day of the calendar quarter following the effective date of the act (October 1, 2019).

<u>Revenue Impact :</u>

No direct impact on State Revenues but violation of Streamlined Sales Tax Agreement provisions would result in sanctions from the Streamlined Sales Tax Governing Board and risk a reduction of the current annual tax collections from Streamlined participating remote sellers of $18 million.

$2.5 Million Estimated Annual Loss to City and County Sales Tax Revenues on sales of new ATVs.

[Based on 2018 ATV registrations. During 2018, approximately 13,000 ATVs were registered with DFA. It is not known if this is the total number of ATVs sold by dealers in Arkansas during the year. Applying a local tax cap to limit the city and county sales tax to the first $2,500 of the sales price reduces local city and county taxes due. Example: $8,000 ATV with purchaser residing in Little Rock. Current total local city and county sales tax = $200.00, Proposed local city and county sales tax $62.50.]

<u>Taxpayer Impact :</u>

Retailers would be required to change their accounting and tax collection systems to administer a tax cap on ATVs.

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Resources Required :

None.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Updates to tax rules will need to be promulgated. Notification to the retailers of this new rule would be necessary. Notification to the Streamlined Sales Tax Governing Board of the non-complying tax law implemented in Arkansas.

Other Comments :

The bill does not provide a definition of an all-terrain vehicle that would be subject to the tax cap for local sales taxes. § 27-21-102 defines an "all-terrain vehicle" to be a vehicle that: has three (3), four (4), or six (6) wheels; is fifty inches (50") or less in width; is equipped with nonhighway tires; is designed primarily for off-road recreational use; and has an engine displacement of no more than one thousand cubic centimeters (1,000 cc). Many off-road vehicles currently sold in the marketplace exceed these dimensions and specifications and would not be subject to local city and county a tax cap. Retailers would be required to determine if a tax cap applies to the sale based on these specifications resulting in applying a tax cap to some sales and not to apply a tax cap to others causing confusion, errors and tax compliance issues.

Legal Analysis :

HB1925 provides a local sales and use tax exemption for the gross receipts in excess of $2,500 derived from the sale of an all-terrain vehicle. Current law provides a local sales and use tax exemption for the gross receipts in excess of $2,500 derived from the sale of a motor vehicle, aircraft, watercraft, modular home, manufactured home or mobile home. This tax exemption in HB1925 is effective on the first day of a calendar quarter following the effective date of the act.

The sales and use tax exemption proposed by HB1925 violates the provisions of the SSUTA and will jeopardize Arkansas' participation in that agreement. The SSUTA allows special tax treatment for motor vehicles, aircraft, boats, and manufactured homes but not for all-terrain vehicles. If Arkansas loses its membership in the SSUTA, some portion of the current state tax collections could be jeopardized.

HB1925 does not define the term "all-terrain vehicle". Current law defines that term for other purposes in § 23-112-103 and § 27-21-102; however, it is unknown whether either of these definitions are consistent with the intention of the bill.

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Other local tax enabling acts contain a local sales and use tax exemption for that portion of the sales price in excess of $2,500 for motor vehicles, airplanes, boats, and mobile homes; however, these provisions were not amended to extend that exemption to all-terrain vehicles. These sections include §§ 14-164-334, 26-73-301, and 26-81-104. Any local sales and use tax levied under these enabling acts would continue to be collected on the full selling price of an all-terrain vehicle.