

Legislative Impact Statement

Bill: HB1775 Amendment Number:H-1 (Engrossment 3/13/15)
Bill Subtitle: TO PROHIBIT THE COLLECTION OF INTERCHANGE FEES ON CERTAIN TAXES AND FEES; AND TO AMEND THE DISCOUNT AVAILABLE TO TAXPAYERS FOR PROMPT SUBMISSION OF SALES TAXES RETURNS.

Basic Change : Sponsor: Representative J. Mayberry
Engrossment 03/13/15 --- House Amendment 1 --- Amends the bill to provide that the proposed prompt payment discount on state sales taxes due of 1 1/2% of the tax amount and capped at \$50 per month would also apply to city and county sales taxes.

Original Bill --- The proposal would require exclusion of state and local taxes and fees when calculating the interchange fee amount that may be billed to the business accepting the card as the method of payment. Taxes levied under the Arkansas Motor Fuels Tax Law would also be excluded when calculating the transaction amount subject to the interchange fees.

The proposal establishes settlement procedures that payment card issuer may use when settling with the person accepting the card as payment and establishes penalties for intentional violation of the Act. The Chief fiscal Officer of the State may bring action to enforce the provisions of the Act against the payment card network provider. The bill provides that DFA would bring necessary court actions to enforce the act including issues related to the inclusion of tax in the interchange fees charged to the party accepting the payment card.

The proposal also amends Ark. Code Ann. § 26-52-503 which provides prompt payment discounts for retailers who report and remit the state and local sales taxes due by the 20th day of the month following the month of the sale. Under current law, a retailer who timely remits the sales taxes retains 2% of the tax amount with a maximum amount capped at \$1,000 per month. The proposal would limit the prompt payment discount on the state sales taxes due to 1 1/2% of the tax amount and capped at \$50 per month. The proposal would become effective on the first day of the calendar quarter following the effective date of the act.

Revenue Impact :
FY16 Tax Increase

Total Impact to State Revenues + \$11,012,742
[8 Months of Reduced Discounts -- 10/1/2015 Effective Date]
+\$ 7,380,231 --- State General Revenue (4.5%)
+\$ 1,435,045 --- Educational Adequacy (.875% tax)
+\$ 820,026 --- Property Tax Relief Trust Fund (.5%)
+\$ 205,006 --- Conservation Tax (.125%)
+\$ 820,026 --- Highway Fund (.5%)
+\$ 0 --- Educational Excellence Trust Fund
+\$ 0 --- Educational Adequacy (GR transfer)
+\$ 242,280 --- State Central Services
+\$ 110,127 --- Constitutional Officers
Total Impact to City and County Sales Taxes +\$10,530,000

FY17 Tax Increase
Total Impact to State Revenues + \$16,519,113
+\$ 9,366,620 --- State General Revenue (4.5%)
+\$ 2,152,567 --- Educational Adequacy (.875% tax)
+\$ 1,230,039 --- Property Tax Relief Trust Fund (.5%)

Department of Finance and Administration

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+\$ 307,509 --- Conservation Tax (.125%)
+\$ 1,230,038 --- Highway Fund (.5%)
+\$ 1,565,347 --- Educational Excellence Trust Fund
+\$ 138,379 --- Educational Adequacy (GR transfer)
+\$ 363,420 --- State Central Services
+\$ 165,191 --- Constitutional Officers

Total Impact to City and County Sales Taxes +\$15,794,000

Taxpayer Impact :

Retailers would receive reduced prompt payment discounts when making monthly sales tax payments.

Resources Required :

None

Time Required :

Adequate time is provided for implementation

Procedural Changes :

Modifications to forms and the electronic tax report filing system.

Other Comments :

The bill provides that DFA would bring necessary court actions to enforce the Electronic Payment Transaction Protection Act. At present, DFA does not regulate the banking industry or other providers offering electronic payment cards and payment networks. For any complaints received by DFA from persons and businesses accepting the cards and not receiving the properly calculated interchange fees, DFA would be required to investigate the matter and bring action against the network provider if it is determined that the provider intentionally violated the Act. These financial institutions issuing the payment cards will be located throughout the U.S. DFA does not have the expertise or manpower to administer the interchange fee portion of this bill. Additional employees will be needed to fulfill this requirement on DFA.

Legal Analysis :

The amendment extends the one-half percent reduction in the amount of the sales tax prompt payment discount to local (city and county) sales taxes. The amendment also extends the cap on the total amount of the discount that a taxpayer may receive per month to local sales taxes as well.