

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1400

Bill Subtitle: TO EXEMPT HEARING AIDS FROM THE REQUIREMENT THAT PROSTHETIC DEVICES BE PRESCRIBED BY A PHYSICIAN TO BE ELIGIBLE FOR THE SALES AND USE TAX EXEMPTION IF CERTAIN CONDITIONS ARE MET.

Basic Change :

Representative D. Altes

This bill provides a sales tax exemption for the sale of hearing instruments that are recommended for purchase by audiologists and persons licensed as hearing instrument dispensers. Current law exempts prosthetic devices, including hearing aids and repair and replacement parts for hearing aids when they are sold to a specific patient pursuant to a prescription written before the sale. The prescription must be written by a licensed physician or practitioner authorized to issue prescriptions under Arkansas law.

The proposal would extend the exemption to sales by audiologists and hearing instrument dispensers when sold in accordance with Code of Federal Regulations §§ 801.420 and 801.421. Sales by audiologists and hearing instrument dispensers are currently subject to these federal regulations which require the purchaser to waive the requirement for a medical evaluation prior to the sale of a hearing aid if the purchaser does not have a signed statement by a licensed physician. This provision would remove the requirement for a medical doctor's prescription for the sales tax exemption to apply.

The bill would take Arkansas out of compliance with the Streamlined Sales Tax Agreement. Hearing instruments are categorized as "prosthetics" and a state must levy the sales tax equally to all products within the definition. The Agreement allows a state to require a prescription issued in accordance with state laws when applying the prosthetic definition for exemption purposes. The exemption for prosthetic devices under Arkansas law does require a prescription by a physician. This bill would remove that requirement for one type of prosthetic device only and violate the Streamlined Sales Tax requirements. The proposal will be effective on the first day of the calendar quarter following the effective date of the act.

Revenue Impact :

Total Impact to State Revenues - \$1.17 million

(Estimate based on 8 months reduced tax collections)

-\$.79 million --- State General Revenue (4.5%)
-\$.15 million --- Educational Adequacy (.875% tax)
-\$.09 million --- Property Tax Relief Trust Fund (.5%)
-\$.02 million --- Conservation Tax (.125%)
-\$.09 million --- Highway Fund (.5%)
-\$ 0 --- Educational Excellence Trust Fund
-\$ 0 --- Educational Adequacy (GR transfer)
-\$.03 million --- State Central Services
-\$.01 million --- Constitutional Officers
Total Impact to City and County Sales Tax -\$375,000

FY15 Tax Decrease

Total Impact to State Revenues - \$1.83 million

-\$1.10 million --- State General Revenue (4.5%)
-\$.24 million --- Educational Adequacy (.875% tax)
-\$.14 million --- Property Tax Relief Trust Fund (.5%)
-\$.03 million --- Conservation Tax (.125%)
-\$.14 million --- Highway Fund (.5%)
-\$.11 million --- Educational Excellence Trust Fund

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-\$.01 million --- Educational Adequacy (GR transfer)
-\$.04 million --- State Central Services
-\$.02 million --- Constitutional Officers
Total Impact to City and County Sales Tax -\$590,000

Taxpayer Impact :

Audiologists and hearing instrument dispensers would establish accounting methods and procedures to substantiate sales that would be exempt from sales tax.

Resources Required :

None

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Education of staff and amend existing sales tax rules to reflect the exemption.

Other Comments :

None

Legal Analysis :

This Bill is incompatible with the Streamlined Sales and Use Tax Agreement. Under the Agreement, a state must treat all items within a product definition in the same manner. States are not allowed to pick and choose items to exempt or tax which are all contained in the same definition. A state may include hearing aids in its definition of prosthetic devices and Arkansas has chosen to do so. A state may choose to limit its exemption for prosthetic devices by requiring a prescription and Arkansas has chosen to do so. This Bill would remove the prescription requirement for hearing aid prosthetic devices only. Therefore, it would treat hearing aids differently than other prosthetic devices so this Bill would take us out of compliance with the Agreement.