

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1206

Bill Subtitle: TO CLARIFY THE SALES TAX TREATMENT OF SERVICE FEES AND DEDUCTIBLES CHARGED PURSUANT TO A CONTRACT.

Basic Change :

Representative Lowery

This bill would enact a sales tax exemption for the amount of any deductible or service fee charged to a consumer for taxable repair services when the taxable repair service was partially paid for through a service contract, maintenance contract or extended warranty contract. Current law provides that state and local sales tax is collected on sales of service, maintenance and extended warranty contracts at the time the contract is sold. The contracts represent a sale of future taxable services. These contracts are commonly sold to cover repairs to motor vehicles, appliances, electronics and home mechanical systems and devices. At the time of a covered repair, the portion of the repair invoice paid by the contract is not subject to sales tax because tax had been paid on the original contract amount.

If the contract does not cover the total amount due for the repair service and the consumer pays an additional amount for the repair, commonly referred to as a service fee or deductible, the additional repair charges over and above what is paid by the warranty contract provider is subject to taxation when billed to the consumer. Arkansas sales tax applies to the total consideration received by the seller who performed the taxable repair service and the portion of the repair charges not paid by the previously taxed contract which are billed to the consumer are subject to sales tax. The bill would exempt these repair charges. The proposal would be effective on the first day of the calendar quarter following the effective date of the proposal.

Revenue Impact :

FY14 Tax Decrease

Total Impact to State Revenues - \$540,000
[8 Months of Reduced Tax Collections -- 10/1/2013 Effective Date]

-\$362,631 --- State General Revenue (4.5%)
-\$ 70,512 --- Educational Adequacy (.875% tax)
-\$ 40,292--- Property Tax Relief Trust Fund (.5%)
-\$ 10,073 --- Conservation Tax (.125%)
-\$ 40,292 --- Highway Fund (.5%)
-\$ 0 --- Educational Excellence Trust Fund
-\$ 0 --- Educational Adequacy (GR transfer)
-\$ 10,800 --- State Central Services
-\$ 5,400 --- Constitutional Officers
Total Impact to City and County Sales Tax - \$175,000

FY15 Tax Decrease

Total Impact to State Revenues - \$830,000

-\$501,568 --- State General Revenue (4.5%)
-\$108,379 --- Educational Adequacy (.875% tax)
-\$ 61,931 --- Property Tax Relief Trust Fund (.5%)
-\$ 15,483 --- Conservation Tax (.125%)
-\$ 61,931--- Highway Fund (.5%)
-\$ 51,276 --- Educational Excellence Trust Fund

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-\$ 4,533 --- Educational Adequacy (GR transfer)
-\$ 16,600 --- State Central Services
-\$ 8,300 --- Constitutional Officers
Total Impact to City and County Sales Tax -\$270,000

Taxpayer Impact :

Taxpayers would change accounting and computer systems to allow for the exemption.

Resources Required :

None

Time Required :

Adequate time is allowed in the proposal.

Procedural Changes :

Education of staff and adoption of rules to reflect the exemption from state and local sales tax.

Other Comments :

None

Legal Analysis :

Currently, sales of contracts, maintenance agreements, and warranties that involve the future performance of taxable services are subject to Arkansas sales tax. Services performed under those contracts are exempt from sales tax because tax was paid on the warranty agreement. Any additional amount billed directly to the customer is subject to sales tax as part of the total gross receipts for the taxable service. This bill exempts a "trade service fee" or deductible charged to a customer pursuant to a contract that was previously subject to Arkansas sales tax.

The bill's title and subtitle provide that this bill is a clarification, which may be evidence that the bill is intended to apply retroactively. Matters are currently pending with the Department that would be affected if this bill were determined to apply retroactively.

The bill takes effect the first day of the calendar quarter following the effective date of the act. The effective date of the act would be 90 days following adjournment.