

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1221

Bill Subtitle: TO AMEND THE LAW CONCERNING THE SALES AND USE TAX EXEMPTION FOR SALES BY A CHARITABLE ORGANIZATION.

Basic Change :

Sponsor: Representative Sabin

HB1221 would amend current sales tax code provisions regarding the collection of sales taxes when merchandise is sold by a charitable organization. Under current law, if sales of merchandise by a charitable organization do not compete with sales by for-profit businesses, the collection of state and local sales taxes is not required. In order to determine if a sale by a charitable organization does not compete with a sale by a for-profit business, the following criteria must be met:

1. The sales transaction is conducted by a member of the charitable organization and not by any franchisee or licensee;
2. All the proceeds derived from the sales transaction go to the charitable organization;
3. The sales transaction is not a continuing one and is held not more than three (3) times a year; and
4. The dominant motive of the majority of purchasers of the items sold is the making of a charitable contribution, with the purchase of an item being merely incidental and secondary to the dominant purpose of making a gift to the charitable organization.

The bill would remove the "dominant motive" test for determining when an organization must collect sales taxes. The bill would impact current sales tax collections by Arkansas charitable organizations sponsoring annual music festivals, concerts, community events and shows. Products upon which sales taxes are currently collected include sales of t-shirts and event souvenirs, food, soft drinks and water, and sales of alcoholic beverages including mixed drinks, beer and wine. Other vendors selling at these events would continue to collect sales taxes on their product sales.

The proposal would be effective the first day of the calendar quarter following the effective date of the Act.

Revenue Impact :

FY18 Tax Decrease

Total Impact to State Revenues	-	\$125,000
[8 Months of Reduced Tax Collections -- 10/1/2017 Effective Date]		
State General Revenue (4.5%)	-\$	83,546
Educational Adequacy (.875% tax)	-\$	16,245
Property Tax Relief Trust Fund (.5%)	-\$	9,283
Conservation Tax (.125%)	-\$	2,321
Highway Fund (.5%)	-\$	9,283
Educational Excellence Trust Fund	-\$	0
Educational Adequacy (GR transfer)	-\$	0
State Central Services	-\$	2,743
Constitutional Officers	-\$	1,247

Total Impact to City and County Sales Taxes - \$40,000

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FY19 Tax Decrease

Total Impact to State Revenues	-	\$187,000
State General Revenue (4.5%)		-\$ 112,461
Educational Adequacy (.875% tax)		-\$ 24,368
Property Tax Relief Trust Fund (.5%)		-\$ 13,924
Conservation Tax (.125%)		-\$ 3,481
Highway Fund (.5%)		-\$ 13,924
Educational Excellence Trust Fund		-\$ 11,813
Educational Adequacy (GR transfer)		-\$ 1,044
State Central Services		-\$ 4,114
Constitutional Officers		-\$ 1,870

Total Impact to City and County Sales Taxes - \$60,000

Taxpayer Impact :

Charitable organizations selling products at annual festivals and events would no longer collect state and local sales taxes on their sales.

Resources Required :

None.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Amendment to sales tax rules and instructions sets for taxpayers would be required.

Other Comments :

The proposal does not impact the sales taxes collected for advertising and promotion programs of Arkansas cities on sales of food. These sales taxes are often referred to as the local "hamburger tax" and are reported directly to the city by the organization making the sale.

Legal Analysis :

The bill removes subsection 4 of the charitable organizations exemption from taxation. This discards the requirement that the "dominant motive of the majority of purchasers of the items sold is the making of a charitable contribution, with the purchase of the item being merely incidental and secondary to the dominant purpose of making a gift to the charitable organization." The remaining requirements are objective and do not require speculation by the charitable organization or the Department.