

Department of Finance and Administration

Legislative Impact Statement

Bill: SB9

Bill Subtitle: TO ENCOURAGE CHARITABLE GIVING AND ELIMINATE PERVERSE AND ABSURD TAXES AND DISINCENTIVES ON CHARITABLE GIVING; AND TO EXEMPT CERTAIN WITHDRAWALS OF STOCK FROM THE SALES AND USE TAX.

Basic Change :

Sponsor: Senator A. Clark

SB9 provides a sales tax exemption for items withdrawn from the inventory by a business if the property is withdrawn for purposes of consumption or use by a: (1) nonprofit organization classified in 26 U.S.C. § 501(c); (2) public educational institution; (3) nonprofit church; or (4) private individual who has suffered damage or loss as the result of a natural disaster.

Withdrawals of merchandise from inventory by a business for its own use or use by others is subject to state and local sales tax based on the value of the property withdrawn regardless of the purpose for the withdrawal. The merchandise withdrawn from inventory is purchased tax free for purposes of resale with the sales tax to be collected at the time the merchandise is sold with the tax collected from the customer. If the business instead removes the property from inventory, current law requires the business to pay the tax due on the value of the items withdrawn. The bill establishes a value of \$0.00 if the property withdrawn is for the purpose as stated resulting in no taxes due.

Revenue Impact :

Fiscal Year 2018

State Sales Tax Loss \$ - 1.061 million

(Estimated Effective Date 10/1/17 --- 8 months reduced tax collection)

General Revenue - 4.5%	\$ - .711 million
Property Tax Relief - .5%	\$ - .079 million
Conservation Fund - .125%	\$ - .019 million
Educational Adequacy Fund - .875%	\$ - .138 million
Highway Fund - .5%	\$ - .079 million
Educational Excellence Trust Fund -	\$ - .000 million
Educational Adequacy (GR Transfer) -	\$ - .000 million
State Central Services -	\$ - .023 million
Constitutional Officers -	\$ - .011 million

Local City and County Sales Tax Loss \$ - 250,000

Fiscal Year 2019

State Sales Tax Loss \$ - 1.592 million

General Revenue - 4.5%	\$ - .957 million
Property Tax Relief - .5%	\$ - .119 million
Conservation Fund - .125%	\$ - .030 million
Educational Adequacy Fund - .875%	\$ - .207 million
Highway Fund - .5%	\$ - .119 million
Educational Excellence Trust Fund -	\$ - .101 million
Educational Adequacy (GR Transfer) -	\$ - .009 million
State Central Services -	\$ - .035 million

Department of Finance and Administration

Legislative Impact Statement

Bill: SB9

Bill Subtitle: TO ENCOURAGE CHARITABLE GIVING AND ELIMINATE PERVERSE AND ABSURD TAXES AND DISINCENTIVES ON CHARITABLE GIVING; AND TO EXEMPT CERTAIN WITHDRAWALS OF STOCK FROM THE SALES AND USE TAX.

Constitutional Officers - \$ - .016 million

Local City and County Sales Tax Loss \$ - 375,000

Taxpayer Impact :

Taxpayers would be required to submit a sworn affidavit to DFA describing in detail the merchandise or property withdrawn from inventory when withdrawing merchandise to be given to individuals who suffered loss resulting from a declared disaster.

Resources Required :

None required provided that storage of recipient affidavits is maintained by the business within their accounting records and are available for subsequent compliance audits in the same manner as business records are maintained for other tax exemptions.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Modification of sales tax rules would be required.

Other Comments :

Page 2 -- Lines 13 through 18 --Storage of affidavits with the required detail information regarding the products withdrawn from stock including recipient identification information should be maintained by the business within their own accounting records and be available for subsequent compliance audits in the same manner as business records are maintained for other tax exemptions.

Legal Analysis :

SB9 would create a new exemption from the gross receipts tax for withdrawals from stock for donated items. The list of entities to which donated items are removed from the applicable tax does not correspond to the definitions provided under existing Arkansas law. That is, the donations are not limited to entities that are defined as "charitable" entities, which may create an inconsistency in the administration of the gross receipts tax.