Department of Finance and Administration

Legislative Impact Statement

Bill: HB1845
Bill Subtitle: CONCERNING THE SALES AND USE TAX LEVIED ON THE PURCHASE OF A MOTOR VEHICLE, TRAILER, OR SEMITRAILER WHEN A USED MOTOR VEHICLE, TRAILER, OR SEMITRAILER IS TRANSFERRED AS PART OF AN INSURANCE SETTLEMENT.

Basic Change :

Sponsors: Representatives Gates, Breaux, Evans, Glover; Senators Flippo, L. Chesterfield, M. Johnson

The proposal amends Arkansas sales tax law pertaining to taxation of motor vehicles, trailers, and semitrailers and the proceeds of insurance settlement agreements against sales taxes due on a replacement motor vehicle.

The bill provides that when a motor vehicle is transferred to an insurance company as part of an insurance settlement agreement rather than being traded-in as a credit or partial payment against a replacement vehicle and the consumer subsequently purchases a replacement vehicle with a greater value within forty-five (45) days of the insurance settlement agreement, the sales tax would be paid on the net difference between the total consideration for the new or used replacement vehicle purchased subsequently and the amount received from the insurance settlement agreement. The consumer claiming the deduction from the sales price of the replacement motor vehicle would be required to provide documentation of the transfer and the insurance settlement amount.

The bill also provides that the deduction would not be allowed and would not apply if sales tax is included in an insurer's settlement payment for a loss under § 23-89-211, which requires an insurer when settling a claim for a total loss of a motor vehicle to include with the payment all applicable taxes, including sales taxes and fees and an itemized list stating the amount of the claim attributable to the value of the motor vehicle and the amount attributable to the sales tax on that value that is being reimbursed.

Under current law, if an insured settles a total loss of a motor vehicle and receives sales tax from the insurance company on the total loss amount, no deduction from the purchase price is allowed when the insured acquires and pays sales tax on the replacement motor vehicle. The insured has received from the insurance company sales tax in the same amount and equivalent to the amount as if the motor vehicle were sold or traded-in.

The Act would be effective on the first day of the calendar quarter following the effective date of the act (October 1, 2019).

Revenue Impact :

Unknown loss to State Revenues

[§ 23-89-211 requires insurance companies to reimburse a motor vehicle owner’s sales taxes on total loss settlements holding harmless the vehicle owner on their loss of sales tax on the value of the motor vehicle settlement. DFA is not knowledgeable of transfers of motor vehicles to insurance companies where the insured did not receive the sales tax on the settlement amount.]

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Taxpayer Impact :

Taxpayers would be allowed an equivalent amount to a trade-in credit when acquiring a motor vehicle that replaces a motor vehicle transferred to an insurance company as a result of a total loss and the insurance company did not reimburse the insured for the sales tax on the motor vehicle. Insurance companies are required to reimburse the sales tax in accordance with § 23-89-211. The credit would be allowed on the purchase of a replacement vehicle, if the assignment was within forty-five (45) days of the purchase of the replacement vehicle.

Resources Required :

None.

Time Required :

Adequate time is provided.

Procedural Changes :

Program the Motor Vehicle computer system to identify and allow the new tax credit. Revise Motor Vehicle Procedures Manual to and distribute to Revenue Offices.

Other Comments :

None.

Legal Analysis :

Currently, Arkansas law provides that when a used motor vehicle, trailer, or semitrailer is sold by a consumer, rather than traded in, and the consumer subsequently purchases a new or used vehicle, trailer, or semitrailer of greater value with forty-five (45) days of the sale, a sales and use tax credit or deduction for the difference will apply. The transfer of a vehicle to an insurance company as a result of a settlement agreement is specifically excluded from the definition of “sale” in § 26-52-103(26)(C)(ii), and currently does not qualify for the sales and use tax credit or deduction.

HB1845 allows the transfer of a used motor vehicle, trailer, or semitrailer to an insurance company as part of an insurance settlement agreement to be used as a tax credit or deduction if the consumer purchases a replacement vehicle within 45 days of the insurance settlement. The bill limits that expansion of the tax credit by excluding from this expansion insurance company settlements where sales tax is included in the insurer's payment for the loss under § 23-89-211.