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FISCAL IMPACT STATEMENT

LS 7696

BILL NUMBER: SB 500

NOTE PREPARED: Jan 18, 2007

BILL AMENDED:

SUBJECT: Tax procedure and administration changes.

FIRST AUTHOR: Sen. Kenley

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL** **IMPACT:** State
 X **DEDICATED**
 FEDERAL

Summary of Legislation: *Sales Tax Exemption Restrictions:* This bill restricts a Sales Tax exemption available under current law for an electric utility that purchases distribution equipment or transmission equipment. The bill restricts a Sales Tax exemption available under current law for a hotel or a restaurant that purchases electricity, water, gas, or steam. This bill also restricts a Sales Tax exemption available under current law for an aircraft lessor that purchases an aircraft for rental or leasing.

Sales Tax Collection Allowance: The bill provides for a graduated Sales and Use Tax collection allowance for a retail merchant.

Electronic Returns and Funds Transfer Requirements: The bill also specifies conditions under which a professional tax return preparer must file client returns electronically. This bill decreases various periodic tax liability thresholds at which taxpayers are required to make tax payments by electronic fund transfer from \$10,000 to \$5,000. The bill also provides that a tax payment made by electronic fund transfer is considered made on the date the taxpayer issues the payment order for the electronic fund transfer.

Interest on Tax Refunds: This bill provides for the accrual of interest at the rate of 6% per annum on Inheritance Tax refunds that are not processed within 90 days by the Department of State Revenue.

Cigarette Tax Stamp Discount: The bill increases the cigarette stamp discount to distributors from 1.2% to 2.523%.

Refund Hearings: The bill provides that when a taxpayer claiming a refund requests a hearing on the claim, the Department of State Revenue must hold the requested hearing.

Out-of-state Merchant Registration: The bill also repeals a provision of the Sales Tax statute that requires certain out-of-state merchants making sales to customers in Indiana to register as retail merchants and remit Sales and Use tax.

DOR Employee Incentives: The bill repeals an administrative provision that prohibits the Department of State Revenue from establishing: (1) incentives based on the amount of revenue collected or liability assessed; and (2) production quotas for agents based on the number of cases closed. The bill makes technical corrections.

Effective Date: July 1, 2007; January 1, 2008.

Explanation of State Expenditures: *Summary of Expenditures:* It is estimated that this bill will result in overall administrative cost savings for the Department of State Revenue (DOR). All of these provisions will cause the DOR to amend forms, rules and procedures related to administration of the corporate and individual Adjusted Gross Income (AGI) taxes, the Sales Tax, the Inheritance Tax, the Financial Institutions Tax, the Motor Fuel Taxes, and the Cigarette Tax. Although, it is estimated that these increased costs will be totally offset by the administrative costs savings resulting from provisions in the bill.

The provisions of the bill estimated to result in administrative cost savings are as follows:

Electronic Returns and Funds Transfer Requirements: The bill lowers the threshold amount of tax liability that is required before the DOR may require payment by electronic funds transfer from \$10,000 to \$5,000. It is estimated that the incremental costs of receiving payments electronically is lower than receiving payment by other means. The exact amount of savings is indeterminable.

The bill also provides that if a professional tax preparer files more than 100 individual AGI Tax returns in a calendar year, then in the immediately following calendar year the preparer must file their returns electronically.

Interest on Tax Refunds: This bill provides for the accrual of interest, from the date the refund is filed, at the rate of 6% per annum on Inheritance Tax refunds that are not processed within 90 days by the DOR. Under current law, the same rate of interest accrues, but from the date the tax was paid. It is estimated that this will result in a savings to the DOR. The savings will ultimately be determined by the difference in the amount of interest that would have been paid from the date the tax was paid versus the date the claim refund was filed.

DOR Employee Incentives: It is estimated that the DOR could realize a cost savings from the provision of the bill allowing the them to establish: (1) employee incentives based on the amount of revenue collected or liability assessed; and (2) production quotas for agents based on the number of cases closed. The amount of savings will ultimately be determined by the possible increase in productivity as a result of these incentives and quotas being implemented by the DOR.

The following provisions could result in an increase in administrative costs to the DOR.

Refund Hearings: The bill provides that when a taxpayer claiming a refund requests a hearing on the claim, the Department of State Revenue *must* hold the requested hearing. Under current law, the DOR may, but does not have to hold a hearing on a refund claim.

The impact of the following provisions on the administrative costs of the DOR are indeterminable.

Sales Tax Exemption Restrictions: This bill restricts a Sales Tax exemption available under current law for an electric utility that purchases distribution equipment or transmission equipment. The bill restricts a Sales Tax exemption available under current law for a hotel or a restaurant that purchases electricity, water, gas, or steam. This bill also restricts a Sales Tax exemption available under current law for an aircraft lessor that purchases an aircraft for rental or leasing.

Restricting these exemptions, and specifying what these exemptions do and do not apply to could result in a savings to the DOR to the extent that fewer administrative actions are filed contesting DOR interpretation on the issues more clearly specified in this bill. Although, by adding specific restrictions to these exemptions could lead to more administrative hearings on whether the restrictions apply to certain taxpayers or certain situations. Any possible increase in cost could be offset by the increase in Sales Tax collections that could result from these provisions (see *Explanation of State Revenues*).

Out-of-state Merchant Registration: The bill also repeals a provision of the Sales Tax statute that requires certain out-of-state merchants making sales to customers in Indiana to register as retail merchants and remit Sales and Use tax. This provision could result in a cost savings for the DOR, by requiring the DOR to register less merchants. Although, it must be noted that any possible decrease in costs could be offset by the decrease in Sales Tax collections that could result from these provisions (see *Explanation of State Revenues*).

Explanation of State Revenues: *Revenue Summary:* The total impact of this legislation on state revenues is indeterminable. It is estimated that the provisions of the this bill will result in an overall increase in revenue from tax collections of *at least approximately \$17.6 M each year.*

This increase is an estimate based on the impact of the change in the Sales Tax collection allowance, offset by the increase in the discount on cigarette tax stamps. This table illustrates the impact of each provision and the overall sum of those impacts.

Provision	Annual Impact
<i>Sales Tax Collection Allowance Changes</i>	\$22.2 M
<i>Cigarette Tax Stamp Discount Increase</i>	(\$4.6) M
TOTAL	\$17.6 M

Sales Tax Collection Allowance: The bill provides for a graduated Sales and Use Tax collection allowance for a retail merchant. The current rate is 0.83%, and the new rates are based on gross receipts of the merchants as follows:

Annual Gross Receipts	Rate	Number of Taxpayers	Allowance Total under Current Rate (in millions)	Allowance Total under New Rate (in millions)	Impact on Sales Tax Collections (in millions)
Less than \$60,000	0.83%	162,652	\$5.1	\$5.1	\$0
Greater than \$60,000 but less than \$600,000	0.32%	6,283	\$8.2	\$3.2	\$5.0
Greater than or equal to \$600,000	0.13%	913	\$20.4	\$3.2	\$17.2
	TOTAL	169,848	\$33.7	\$11.5	\$22.2

Please note that this estimate represents a simulation of the change in the collection allowances based on 2005 Sales Tax return data provided by the DOR. The actual impact on revenue collections will be dependent on sales tax transactions beginning July 1, 2007.

Sales Tax revenue is deposited in the: Property Tax Replacement Fund (50%), the state General Fund (49.192%), the Public Mass Transportation Fund (0.635%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%).

Cigarette Tax Stamp Discount: The bill increases the cigarette stamp discount to distributors from 1.2% to 2.523%. The increase in this discount will decrease Cigarette Tax collections by approximately \$4.6 M in FY 2008 and \$4.7 M in FY 2009. This estimate is based on data from the December 14, 2006 *State Revenue Forecast*.

Sales Tax Exemption Restrictions: To the extent that restricting these exemptions leads to less exemptions being awarded, there will be an indeterminable increase in Sales tax collections.

Out-of-state Merchant Registration: To the extent that repealing these registration and remittance requirements leads to fewer out-of-state merchants remitting Sales Tax, state revenues will decrease. Although, the impact of this provision is indeterminable. It must be noted that many out-of-state merchants now register to remit Sales Tax to various states under the Streamlined Sales Tax Agreement (SSTA).

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue.

Local Agencies Affected:

Information Sources: Department of State Revenue, Sales Tax database.

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