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RETURNED GOODS: SALES/USE TAX REBATE

House Bill 4664 as introduced
Sponsor: Rep. Andrew Richner
Committee: Tax Policy

Senate Bill 585 as passed by the Senate
Sponsor: Sen. Mike Goschka
Senate Committee: Finance
House Committee: Tax Policy

First Analysis (4-26-00)

THE APPARENT PROBLEM:

Reportedly, it is the practice of retailers to return any sales tax paid on an item when the item is returned and a refund provided. (Alternatively, a credit for the amount of the item sold plus the amount of taxes might be provided, depending on store policy.) However, the state sales tax law doesn't specifically require such a refund of the tax, nor does the act governing the use tax, a companion to the sales tax. There have been instances reported of customers not receiving a refund of the sales taxes paid. As a result, legislation has been introduced to clarify the sales and use tax laws.

THE CONTENT OF THE BILLS:

The bills would, generally speaking, require that when a person returned a previously purchased item for a refund or credit, he or she would get a refund or credit for any sales or use tax paid on the item.

Senate Bill 585 would amend the Use Tax Act (MCL 205.101). It would specify that if the person liable for the collection of use tax refunded or provided a credit for all or a portion of the amount of the purchase price paid for returned tangible personal property within the time period for returns stated in the refund policy or 180 days after the initial sale, whichever was sooner, the person would also have to refund or provide a credit for the tax levied that had been added to the purchase price. It would apply the same requirement to amounts paid for services taxable under the act.

House Bill 4664 would amend the General Sales Tax Act (MCL 205.60). It would specify that if a taxpayer (i.e., a retailer) accepted tangible personal property for

a credit or refund, the taxpayer would have to refund to the person who returned the property or credit to that person any tax levied that had been added to the sale price at the time the property was originally sold. (Note: A substitute is anticipated that would adopt similar language as found in Senate Bill 585 saying that property would have to be returned within the stated refund period or within 180 days, whichever was sooner. It also would refer to "all or a portion" of the purchase price as does Senate Bill 585.)

BACKGROUND INFORMATION:

According to the Senate Fiscal Agency's analysis of an earlier version of Senate Bill 585, the General Sales Tax Act does permit the taxpayer (i.e., the retailer) to deduct taxes paid on any returned goods for which a refund or credit has been given from the taxes it must remit to the state. Further, there is an administrative rule applying to both the sales and use taxes stating that the taxes can only be deducted if the goods are voluntarily returned for a full exchange, an entire refund of the purchase price, or full credit.

FISCAL IMPLICATIONS:

The House Fiscal Agency says that the refund practice for sales and use taxpayers is to refund to customers the tax paid when a full refund occurs but to provide no tax refund for partial refunds. The HFA points out that the fiscal impact of the bill depends on the amount of tax that would be refunded for partial returns. (HFA fiscal notes dated 4-25-00)

House Bill 4664 and Senate Bill 585 (4-26-00)

ARGUMENTS:

For:

The bills would put into the sales and use tax statutes a specific requirement that customers who return goods for a refund or a credit must be provided with a refund of any sales or use taxes paid. (It would also apply to any services subject to the use tax, such as telephone bills and hotel accommodations.) While this is said to be the current practice of retailers, there is no requirement that taxes should be refunded, and there are said to have been cases where taxes were not refunded when they should have been. The law does say retailers can deduct such refunds and credits from the amount of taxes they must pass on to the state, but nowhere does it specify that the taxes must be refunded to customers. The bills address this problem. Also, the bills would allow refunds of taxes based on less than the full purchase price, which apparently is not allowed currently under administrative rules of the Department of Treasury.

POSITIONS:

The Department of Treasury supports the bill. (4-25-00)

The Michigan Retailers Association supports the bill. (4-25-00)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.