

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 585 (as enrolled)
House Bill 4664 (as enrolled)
Sponsor: Senator Mike Goschka
Representative Andrew Richner
Senate Committee: Finance
House Committee: Tax Policy

PUBLIC ACT 153 of 2000
PUBLIC ACT 149 of 2000

Date Completed: 9-11-00

RATIONALE

Under the General Sales Tax Act, taxes are levied on, and remitted to the State by, persons engaged in the business of making sales at retail. The retailer (the taxpayer) is responsible for paying the tax on the taxpayer's gross proceeds, but may pass on the cost of the tax to the customer when making a transaction. The Use Tax Act levies the use tax in a similar manner (although the use tax may be applied to individuals who purchase goods outside the State and bring them here for use, storage, or consumption). It was pointed out that neither Act required a retailer to refund tax paid by a customer for goods that the customer returned. In the General Sales Tax Act, within the definition of "gross proceeds" it states that a credit or refund for returned goods may be deducted (when a taxpayer remits the tax to the Department of Treasury). The Use Tax Act did not address the treatment of a credit or refund. Administrative Rule 205.16, which applies to both the sales tax and the use tax, states that credits or refunds for returned goods, the sales of which have been taxed, may be deducted only if the goods are voluntarily returned for a full exchange, an entire refund of the purchase price, or full credit. Reportedly, though rare, there have been instances in which retailers failed to refund to customers sales or use taxes paid for goods when those goods were returned. Some people believe that if a taxpayer accepts returned goods for a credit or refund, the customer also should receive the tax levied on the goods.

CONTENT

Senate Bill 585 amended the Use Tax Act and House Bill 4664 amended the General Sales Tax Act to provide that if a person liable for the collection of the tax provides a credit or refund 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 person's refund policy or 180 days after the initial sale, whichever is sooner, the person also must refund or provide a credit for the tax that was added to all or a portion of the amount

of the purchase price refunded or credited.

Further, Senate Bill 585 provides that if a person liable for collection of the use tax refunds or provides a credit for all or part of an amount paid for a taxable service, within the time period for returns stated in the refund policy or 180 days after the initial sale, whichever is sooner, the person also must refund or provide a credit for the use tax paid on all or part of the amount paid for services refunded or credited.

In addition, House Bill 4664 provides that if a taxpayer tenders an amount to a buyer under Section 10a of the Pricing and Advertising of Consumer Items Act, the taxpayer must refund the sales tax on the difference between the price stamped or affixed to the item and the price charged. (Under Section 10a of that Act, in a retail transaction in which a buyer is charged more for an item than the price stamped or affixed to the item, the seller can avoid further recovery actions if the seller tenders to the buyer the difference between the price stamped or affixed to the item and the price charged, plus 10 times the difference, to a maximum of \$5 per item.)

MCL 205.101 (S.B. 585)
205.60 (H.B. 4664)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Previously, neither the General Sales Tax Act nor the Use Tax Act specifically required a retailer to return to a customer taxes paid on goods the customer returned to the retailer for a refund. Although the General Sales Tax Act and an administrative rule allow a taxpayer to deduct refunds or credits on returned goods, neither imposed a responsibility to refund taxes paid. Thus, a retailer might have given a customer a full refund on returned goods, but not returned the tax that was paid on the original

transaction. While this was not a widespread problem, the issue needed to be addressed. The bills eliminate any possibility that a customer might be denied a refund of taxes he or she paid on goods or services purchased but returned.

Legislative Analyst: G. Towne

FISCAL IMPACT

The refund practice for sales and use taxpayers has been to refund to customers the sales and use tax paid when a full refund occurred. However, when a partial refund occurred, no sales or use tax was refunded. The fiscal impact of these bills depends on the amount of sales and use tax that will be refunded for partial returns, which will be based on the original sale price.

Fiscal Analyst: D. Zin

A9900\585ea

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.