



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 1039 (as passed by the Senate)
Sponsor: Senator Michelle A. McManus
Committee: Finance

(as enrolled)

Date Completed: 11-6-06

RATIONALE

Under the General Sales Tax Act, when an item is sold at auction in Michigan, the 6% tax is levied on the gross proceeds of the sale, even when the auction is held for charitable purposes. Often, people bidding for items at charitable auctions pay far more than the items' actual value because the extra money is going to a cause the bidders support, and the difference between the value of the item and the amount paid may be deductible for Federal income tax purposes. As a result, it is not uncommon for the sales tax on something sold at a charitable auction to be substantially more than the tax would have been if the item had been sold at retail. Reportedly, most charities pay the sales tax themselves, to avoid asking successful bidders for more money. Some people believe that, in these cases, charities should be entitled to a refund of the sales tax paid on the proceeds of a sale above the item's fair market value.

CONTENT

The bill would amend the Streamlined Sales and Use Tax Revenue Equalization Act to allow a nonprofit organization that sold an item at a charitable auction to claim a tax refund of 6% of the proceeds over the item's fair market value.

Specifically, the bill would permit a qualified person who paid a tax under the General Sales Tax Act to calculate a credit and seek a refund from the Department of Treasury equal to 6% of the proceeds of a qualified sale of an auctioned item in excess of its gross fair market value.

At the option of the qualified person, the credit could be applied to reduce the person's tax due under the General Sales Tax Act.

Under the bill, "qualified person" would mean a nonprofit organization that was exempt from Federal income tax under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code. "Qualified sale" would mean a sale made by a qualified person through a charitable auction.

A qualified person could not seek a credit or refund under the bill for any portion of a sale of an auctioned item for which sales tax had been collected from the purchaser, unless that tax were refunded to the purchaser.

A qualified person seeking a credit or refund under the bill would have to obtain and keep a certification of the item's fair market value, to be supplied by the donor of the item on a form prescribed by the Department of Treasury.

The bill would take effect 90 days after its enactment.

Proposed MCL 205.184

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

The bill would address a common occurrence at charitable auctions: people bidding up the price of an item with the idea that the additional proceeds will benefit a charity

they support, causing the charity to remit the 6% sales tax on the entire purchase price. Often, rather than alienating a buyer by adding the sales tax to the purchase price, as is done in most sales transactions, the charity ends up paying the tax itself. In recognition of the charitable nature of these auctions, the bill would allow a charity to claim a refund of 6% of the proceeds of a sale over an item's fair market value, or apply a credit to the amount of the charity's sales tax due. The bill in effect would eliminate the sales tax on the portion of a sale at auction meant to be a charitable donation. The State would collect the sales tax on the fair market value of the purchased item, while charitable organizations would be able to retain more of the money intended for them.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would reduce sales tax revenue by less than \$1 million on a full fiscal year basis. Under the current distribution of sales tax revenue, this loss in revenue would primarily affect the School Aid Fund and the General Fund. There would be no direct impact on local units of government.

Fiscal Analyst: Jay Wortley

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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.