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SFA**BILL ANALYSIS**

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Senate Bill 584 (Substitute S-2 as reported)
Senate Bill 585 (Substitute S-3 as reported)
Sponsor: Senator Mike Goschka
Committee: Finance

Date Completed: 3-13-00

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 has been pointed out that neither Act requires a retailer to refund tax paid by a customer for goods that the customer returns. 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 does 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 have 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 584 (S-2) would amend the General Sales Tax Act, and Senate Bill 585 (S-3) would amend the Use Tax Act, to provide that if a taxpayer accepted returned tangible personal property for a credit or refund within the time period for returns stated in the taxpayer's refund policy, or 180 days after the initial sale, whichever was sooner, the taxpayer would have to refund to the person (or credit to a person who returned the property for a credit), any sales or use tax levied that the taxpayer

added to the sale price at the time the property was originally sold.

Proposed MCL 205.60 (S.B. 584)
Proposed MCL 205.98 (S.B. 585)

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

Currently, neither the General Sales Tax Act nor the Use Tax Act specifically requires a retailer to return to a customer taxes paid on goods the customer returns 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 imposes a responsibility to refund taxes paid. Thus, a retailer might give a customer a full refund on returned goods, but not return the tax that was paid on the original transaction. While this has not been a widespread problem, the issue needs to be addressed. The bills would eliminate any possibility that a customer could be denied a refund of taxes he or she paid on goods purchased but returned.

Legislative Analyst: G. Towne

FISCAL IMPACT

Currently, the refund practice for sales and use taxpayers is to refund to customers the sales and use tax paid when a full refund occurs. However, when a partial refund occurs, no sales or use tax is refunded. The fiscal impact of this bill depends on the amount of sales and use tax that would be refunded for partial returns, which would be based on the original sale price.

Fiscal Analyst: R. Ross

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