

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1966

Bill Subtitle: CONCERNING THE SALES TAX LEVIED ON THE PURCHASE OF A MOTOR VEHICLE, TRAILER, OR SEMITRAILER WHEN A USED MOTOR VEHICLE, TRAILER, OR SEMITRAILER IS SOLD AS PART OF AN INSURANCE SETTLEMENT RATHER THAN TRADED IN AS CREDIT OR PARTIAL PAYMENT.

Basic Change : Sponsor: Representative Copeland

The proposal amends Arkansas sales tax law pertaining to taxation of motor vehicles, trailers, and semitrailers. Current law allows a taxpayer who sells a motor vehicle and purchases a replacement vehicle within 45 days to pay sales tax on the difference between the purchase price of the replacement vehicle and the selling price of the vehicle sold. Currently, when someone transfers a motor vehicle title to an insurance company pursuant to an insurance settlement following an accident, the proceeds from the insurance settlement are not treated as proceeds from the sale of the vehicle and are not deducted from the purchase price of the replacement vehicle. Instead, current law requires the insurance company to reimburse the claimant the amount of sales tax for the value of the vehicle at the time it was damaged.

Revenue Impact :

FY 2016 Total Impact to State Revenues -\$9.6 million

[9 Months of Reduced Tax Collections -- 10/1/2015 Effective Date]

- \$ 6.4 million --- State General Revenue (4.5%)
- \$ 1.3 million --- Educational Adequacy (.875% tax)
- \$ 0.7 million --- Property Tax Relief Trust Fund (.5%)
- \$ 0.2 million --- Conservation Tax (.125%)
- \$ 0.7 million --- Highway Fund (.5%)
- \$ 0.0 --- Educational Excellence Trust Fund
- \$ 0.0 --- Educational Adequacy (GR transfer)
- \$ 0.2 million --- State Central Services
- \$ 0.1 million --- Constitutional Officers

FY 2017 Total Impact to State Revenues -13.0 million

- \$ 7.4 million --- State General Revenue (4.5%)
- \$ 1.7 million --- Educational Adequacy (.875% tax)
- \$ 1.0 million --- Property Tax Relief Trust Fund (.5%)
- \$ 0.2 million --- Conservation Tax (.125%)
- \$ 1.0 million --- Highway Fund (.5%)
- \$ 1.2 million --- Educational Excellence Trust Fund
- \$ 0.1 million --- Educational Adequacy (GR transfer)
- \$ 0.3 million --- State Central Services
- \$ 0.1 million --- Constitutional Officers

[Revenue Impact based on U.S. Dept. of Transportation National Highway Traffic Safety Administration reports reflecting national motor vehicle crash data and the property losses factored to the Arkansas portion of losses of \$184 million]

Taxpayer Impact :

Taxpayers receiving an insurance settlement will be allowed a deduction the amount of the insurance settlement from the purchase price of a replacement vehicle when calculating the sales tax due as well as receiving a reimbursement of tax from the insurance company as part of the insurance settlement.

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Resources Required :

None.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Education of staff and rule changes to implement the change in law.

Other Comments :

Ark. Code Ann. § 23-89-211, requires an insurance company, when settling damages for a total motor vehicle loss, to include as payment to the insured the sales taxes on the value of the total loss vehicle. This requirement offsets the tax savings that would have occurred if the vehicle had not been damaged but traded-in on a replacement vehicle purchase. By allowing the value of the damaged vehicle to be used to reduce the amount of sales taxes due on the replacement vehicle, the insured would receive a double tax benefit; (1) receiving sales taxes from the insurance settlement to cover the loss, and (2) reducing the sales taxes due on the purchase of a replacement vehicle in that same amount.

Legal Analysis :

Currently, Arkansas provides a sales and use tax credit or deduction against the taxable sales price for purchases of new or used motor vehicles. The credit or deduction applies when vehicles are traded in to the seller on the vehicle purchase or sold to a third party ("private sale") within 45 days of the purchase of a new or used vehicle. The transfer of vehicles to an insurance company is expressly excluded from the definition of sale in Ark. Code 26-52-103(19)(C) and, thus, cannot qualify for this deduction or credit.

HB1966 provides that both private sales and transfers to an insurance company for an insurance settlement qualify for the deduction or credit so long as the transaction occurs within 45 days of the purchase of a new or used vehicle. The bill is effective on the first day of the calendar quarter following the effective date of the act.

Several technical issues should be corrected. On Page 1, Line 34, the transfer of a damaged vehicle to the insurance company as part of a settlement agreement is described as a sale to the insurance company. As stated above, these transactions are expressly excluded from the definition of sale and this language should be modified to describe the transaction as a "transfer" to avoid confusion that may be caused by the contradiction. Also, Ark. Code Ann. § 26-53-126 mirrors the sales tax provision amended by HB1966 and should also be amended to avoid confusion.