LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 20, 2007

TO: Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **SB1617** by Harris (Relating to the collection of motor vehicle sales taxes on seller-financed sales by dealers.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1617, Committee Report 1st House, Substituted: a negative impact of ($3,907,000) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	($1,915,000)
2009	($1,992,000)
2010	($2,072,000)
2011	($2,155,000)
2012	($2,241,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1
2008	($1,915,000)
2009	($1,992,000)
2010	($2,072,000)
2011	($2,155,000)
2012	($2,241,000)

Fiscal Analysis

This bill would amend Chapter 152 of the Tax Code relating to the collection of motor vehicle sales taxes on seller-financed sales by dealers.

The bill would exempt certain motor vehicle sales by dealers from the motor vehicle sales tax due when a dealer factored, assigned, or otherwise transferred the right to receive payments on a seller-financed sale. The law requiring payment of the balance of the motor vehicle sales tax due on the transaction would not apply to a dealer who sold a purchaser's account to a person registered with the Comptroller's Office as a related finance company, or who granted a security interest in a purchaser's account, but retained custody and control of an account and the right to receive payments in the absence of a default under the security agreement.

The bill would define a "related finance company" as a person in which at least 80 percent of the ownership was identical to the ownership of the dealer.

Under the bill, the Comptroller would establish a registration system for related finance companies and prescribe forms and make the forms available to the public. A related finance company could annually register with the Comptroller. The Comptroller could charge an annual fee for each registration, not to exceed $600, and could adopt rules to implement the bill.

The change in the law would not affect taxes imposed before the effective date of the bill, and the law in effect before the effective date of the bill would be continued in effect for the purposes of the liability for and collection of those taxes.

This bill would take effect July 1, 2007, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2007.

Methodology

Under current law, if a dealer factors, assigns, or otherwise transfers the right to receive payments to another person, all unpaid tax is due on the total consideration not reported at the time the agreement is factored, assigned, or otherwise transferred. The bill would have no effect if the purchaser continued to make all payments under the contract. In the event, however, that such an agreement were transferred and subsequently defaulted on, this bill's provisions would produce a fiscal loss for those transfers meeting the requirements specified in the bill.

Because a person would have to register with the Comptroller as a related finance company to be exempt from the provisions of accelerated tax under this bill, it is probable that a number of persons would register with the Comptroller. However, because the registration would be permissive, and the fee would be indeterminate, in an amount not to exceed $600, it is not possible to determine how many dealers would register and how much revenue would be collected.

For illustrative purposes only, if one-fourth of the currently registered seller-financed dealers were to register annually with the Comptroller, and the Comptroller were to set the annual fee at $600, the revenue that could accrue annually to General Revenue Fund 0001 would be approximately $984,000.

Diesel trucks weighing over 14,000 pounds are subject to the Texas Emissions Reduction Plan surcharge of 2.5 percent of total consideration paid for a vehicle model year 1996 or earlier, or 1 percent for a model 1997 or later. The effect on seller-financed sales would be insignificant.

It was assumed that there would be no fiscal impact in fiscal 2007 for the July 1, 2007 effective date because no defaults subject to the provisions of this bill would likely occur before August 31, 2007

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, KJG, CT, SD