



Legislative Fiscal Bureau

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February 10, 2016

TO: Members
Joint Finance Committee

FROM: Bob Lang, Director

SUBJECT: Senate Bill 506: Sales Tax Exemption for Federal Excise Tax Imposed on a Sale of a Heavy Truck or Trailer

Senate Bill 506 (SB 506) was introduced on January 6, 2016, and was referred to the Senate Committee on Revenue, Financial Institutions, and Rural Issues. On January 7, a report on the bill of the Joint Survey Committee on Tax Exemptions was requested. The Joint Survey Committee on Tax Exemptions found that the bill was appropriate public policy on January 27, 2016. The Senate Committee on Revenue, Financial Institutions, and Rural Issues recommended the bill for passage on a vote of 5 to 0 on January 28, 2016. The bill was referred to the Joint Committee on Finance on February 2, 2016.

BACKGROUND

As a part of 2009 Wisconsin Acts 2 and 28, Wisconsin passed legislation necessary to conform Wisconsin's sales and use tax laws to the requirements of the national Streamlined Sales and Use Tax Agreement (SSUTA). Wisconsin became a full member of the Streamlined Sales Tax Governing Board (SSTGB), effective October 1, 2009.

In December 2011, the SSUTA was amended to clarify which taxes and fees are included in "sales price." Streamlined Rule 327.9 specifically lists the Federal Retail Tax on Heavy Trucks as a tax that is imposed on the seller and, thus, included in the sales price. To conform with Streamlined Rule 327.9, the definition of "sales price" in Wisconsin state statutes was amended in the 2013-15 biennial budget act (2013 Act 20), effective July 2, 2013.

Wisconsin's administrative rules were amended to reflect the new definition of sales price, effective September 1, 2014. The rule states that the federal excise tax on heavy trucks is included in a seller's sales price.

On September 17, 2015 the SSUTA was amended to allow member states to exclude certain federal excise taxes from sales price, including the federal excise tax on heavy trucks.

CURRENT LAW

Wisconsin imposes a general sales and use tax at a rate of five percent on the sales price or purchase price of taxable goods and services sold or used in this state, with certain exceptions. Under current law, the federal excise tax of 12 percent is included in the sales price of heavy duty trucks and trailers subject to the sales and use tax in Wisconsin.

SUMMARY OF BILL

SB 506 would amend the definitions of "purchase price" and "sales price" under the sales and use tax statutes to exclude the 12% federal excise tax imposed on the seller in a retail sale of a heavy truck or trailer that is separately stated on the invoice, bill of sale, or similar document that the seller gives to the purchaser.

SB 506 would take effect retroactively on September 1, 2014. Based on this date, Wisconsin would be out of compliance with SSUTA from September 1, 2014 up to the day of publication of the act. From the day of publication and going forward, Wisconsin would be in compliance with SSUTA. It is common for states to be temporarily out of compliance with SSUTA. Given that this instance of being out of compliance would have already past, DOR does not foresee any complications with SSUTA over the adoption of this exemption.

FISCAL EFFECT

Based on the fiscal estimate produced by the Department of Revenue (DOR), the provisions of SB 506 would reduce state sales and use tax revenues by \$314,000 on an annual basis. In addition to the ongoing fiscal effect, the bill's retroactive effective date of September 1, 2014, would result in refunds totaling an estimated \$485,000 over the next several years. Assuming that 25% of this refund is claimed in 2015-16 (\$120,000) and 50% is claimed in 2016-17 (\$245,000) the total reduction in state tax revenues as a result of SB 506 is estimated to be \$225,000 in 2015-16 and \$560,000 in 2016-17. In the next biennium, and assuming the remaining 25% of the refund amount is claimed in 2017-18 (\$120,000), the total reduction in state tax revenues as a result of SB 506 is estimated to be \$434,000 in 2017-18 and \$314,000 in 2018-19. Local sales tax revenues would decrease by an estimated \$23,000 annually. Local sales tax refunds would total an estimated \$35,000.

Prepared by: Ryan Horton