TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

SB 1475 - HB 1490

March 2, 2016

SUMMARY OF BILL: Exempts persons making sales to retailers of other types of tangible personal property, other than beer and tobacco, from the requirement to provide information reports of such sales to the Department of Revenue under the Retail Accountability Program. Prohibits the Department from issuing any assessment, including a notice of proposed assessment, to any seller providing an information report under the Program based solely on the information report. Authorizes the report to be used to initiate an audit of the seller, which may lead to an assessment. Requires all procedures and policies under the Program to be promulgated by rule in accordance with the Uniform Administrative Procedures Act.

ESTIMATED FISCAL IMPACT:

Decrease State Revenue – $6,840,000/FY16-17
$1,533,400/FY17-18
$929,000/FY18-19 and Subsequent Years

Decrease Local Revenue – $2,823,600/FY16-17
$638,400/FY17-18
$448,100/FY18-19 and Subsequent Years

Assumptions:

- An effective date of July 1, 2016.
- Under the Retail Accountability Program, pursuant to Tenn. Code Ann. § 67-6-410, the Department of Revenue is authorized to require persons making sales to retailers of beer or tobacco products file an information report of such sales.
- Pursuant to Public Chapter 342 of the Public Acts of 2015, the reporting requirements under the Program were expanded to persons making sales to retailers of other categories or types of tangible personal property, as may be designated from time to time by the Department, in addition to beer and tobacco.
- According to the Department's policies for the Program, as published on the Department's website, beer and tobacco wholesalers that also sell food and beverages are required to include those sales in their report to the Department.

- In addition, non-beer and non-tobacco wholesalers are required to report food and beverage sales to the Department, if their total sales for resale are $500,000 or more per year, and these items are sold to retailers that sell beer or tobacco products.
- The expansion of the Program by the Public Chapter 342 of the Public Acts of 2015 was estimated to result in a recurring increase in sales tax revenue of $2,754,203, of which $1,907,030 was the state portion and $847,173 was the local portion. That estimate was based on the absence of the $500,000 total sales exemption.
- It is estimated that, as a result of such exemption, the expansion under current rules will result in approximately 50 percent of the originally estimated impact, or an increase in total revenue of $1,377,102 ($2,754,203 x 50%).
- By effectively removing the expansion of the Program, the proposed legislation is estimated to result in a recurring decrease in total sales tax revenue of $1,377,102, beginning in FY16-17.
- Requiring that all procedures and policies under the Program to be promulgated by rule in accordance with the Uniform Administrative Procedures Act will halt the enforcement of the Program until such rules are adopted and ready to be enforced. The Department will not receive any information reports and will not issue any assessments during this period.
- The rule promulgation process will be completed in time to allow the Department to continue with the issuance of assessments, subsequent to any taxpayer audits as required by this bill, by the start of FY17-18.
- The average annual collections attributed to assessments issued pursuant to information reports filed by wholesalers with the Department is estimated to be $6,697,175.
- There will be a one-time decrease in total sales tax revenue as a result of the rule-promulgation requirement of approximately $6,697,175 in FY16-17.
- According to the Department, the Program has increased voluntary compliance by retailers, resulting in annual total sales tax collections of $15,893,640.
- It is estimated that such collections from voluntary compliance would decrease by approximately 10 percent in FY16-17, during the rule-promulgation process and while the Department is not issuing any assessments, and by approximately 5 percent in FY17-18, as the Program gets started again and the compliance starts to increase towards the previous level.
- The resulting decrease in total sales tax collections is estimated to be $1,589,364 in FY16-17 ($15,893,640 x 10%), and $794,682 in FY17-18 ($15,893,640 x 5%).
- The total decrease in sales tax revenue as a result of this bill is estimated to be $9,663,641 in FY16-17 ($1,377,102 + $6,697,175 + $1,589,364), $2,171,784 in FY17-18 ($1,377,102 + $794,682), and $1,377,102 in FY18-19 and subsequent years.
- Of this, the decrease in state revenue is estimated to be $6,840,022 in FY16-17, $1,533,433 in FY17-18, and $929,021 in FY18-19 and subsequent years. The decrease in local revenue is estimated to be $2,823,619 in FY16-17, $638,351 in FY17-18, and $448,081 in FY18-19 and subsequent years.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista M. Lee

Krista M. Lee, Executive Director

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