

Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

House Bill 4664 (Substitute H-1 as reported without amendment)

Sponsor: Representative Andrew Richner

House Committee: Tax Policy

Senate Committee: Finance

Date Completed: 5-15-00

## **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**

The bill would amend the General Sales Tax Act to provide that if a taxpayer (a retailer or seller) refunded or provided a credit for all or a portion of the amount of the purchase price of returned tangible personal property, 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 or provide a credit for the sales tax that the taxpayer added to all or that portion of the amount of the purchase price that was refunded or credited.

(Note: Senate Bill 585 would amend the Use Tax Act to place a similar provision in that Act. Senate Bill 585 has been passed by both houses of the Legislature.)

Proposed MCL 205.60

## **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 bill would eliminate any possibility that a customer could be denied a refund of sales taxes he or she paid on goods purchased but returned.

Legislative Analyst: G. Towne **FISCAL IMPACT**

No estimate of the fiscal impact of this bill is possible at this time, because there are no data on which to base such an estimate. Due to the fact that under current law, no sales tax refund is paid to consumers who are refunded less than the original purchase price for a returned item, the Department of Treasury does not collect any data on this type of return transaction. An attempt is being made to obtain some useful information from another state that does currently provide partial sales tax refunds for this

H9900\4664a

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

type of return transaction. When the information becomes available, this analysis will be undated.

Fiscal Analyst: J. Wortley