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Senate Bill 232 (Substitute S-1 as reported by the Committee of the Whole)
Senate Bill 233 (Substitute S-1 as reported by the Committee of the Whole)
Sponsor: Senator Dave Robertson
Committee: Finance

CONTENT

Senate Bill 232 (S-1) would amend the tax-on-the-difference provisions of the Use Tax Act to replace the definition of "dealer" and delete a requirement a motor vehicle or recreational vehicle (RV) be purchased from a dealer licensed under the Michigan Vehicle Code (i.e., an in-State dealer).

The Act requires a taxpayer to purchase a new or used motor vehicle or recreational vehicle from a dealer licensed by the Secretary of State under Section 248 of the Michigan Vehicle Code in order to be eligible for use tax on the difference. Also, for this purpose, the Act defines "dealer" as a person licensed as a new vehicle dealer or as a used or secondhand dealer under Section 248. (That section contains licensure requirements for dealers, including a requirement that a dealer have an established place of business in this State.)

The bill, instead, would require a motor vehicle or RV to be purchased from a dealer, and would define "dealer" as the term is defined in Section 11 of the Vehicle Code.

(That section defines "dealer", except as otherwise provided, as a person who in a 12-month period engaged in the business of one or more of the following: a) purchasing, selling, exchanging, brokering, leasing, or dealing in vehicles of a type required to be titled under the Code; b) purchasing, selling, exchanging, brokering, or dealing in salvageable parts of five or more vehicles; or c) buying five or more vehicles to sell vehicle parts or process into scrap metal.)

Senate Bill 233 (S-1) would amend the tax-on-the-difference provisions of the General Sales Tax Act to require a motor vehicle, RV, or titled watercraft to be purchased from a dealer, and would define "dealer" as the term is defined in Section 11 of the Vehicle Code.

The Act also allows the trade-in value of a titled watercraft to be deducted from the purchase price of a new or used titled watercraft. The bill would refer to such a watercraft purchased from a watercraft dealer, and would define "watercraft dealer" as the term is defined in Part 801 (Marine Safety) of the Natural Resources and Environmental Protection Act.

In the case of both vehicles and watercraft, the bill states that the provisions would not apply to leases or rentals.

The bills would be retroactive and take effect December 15, 2013.

(The Use Tax Act and the General Sales Tax Act impose a tax of 6% on the purchase price or sales price of nonexempt personal property and services. Except as provided for the trade-in value of a motor vehicle or RV (or a titled watercraft), the Acts' definitions of "purchase price"

and "sales price" include credit for any trade-in (imposing tax on the full price rather than on the difference in value between the item purchased and the one traded-in).

Beginning November 15, 2013 (for titled watercraft), and December 15, 2013 (for motor vehicles and RVs), "purchase price" and "sales price" do not include credit for the agreed-upon value of a motor vehicle or RV or a titled watercraft used as part payment of the purchase price of a new or used motor vehicle or RV or a new or used titled watercraft. (That is, the value of the trade-in is not subject to the use or sales tax.) In the case of a motor vehicle or RV, the value of the trade-in that may be deducted is subject to dollar limits and a phase-in schedule that increases the amount until there is no limit.)

Under both Acts, the scheduled annual increase in the dollar amount allowed will take place "unless section 105d of the Social Welfare Act...is repealed". The bills would delete the quoted language. (Section 105d provides for the expansion of the Medicaid program pursuant to the Affordable Care Act, and requires the State to seek a Federal waiver permitting the State's modifications to the program that accompany the waiver.)

MCL 205.92 (S.B. 232)
205.51 (S.B. 233)

Legislative Analyst: Ryan M. Bergan

FISCAL IMPACT

The bills would reduce State revenue by an unknown and likely negligible amount. Any revenue loss would affect General Fund revenue, School Aid Fund revenue, and revenue sharing to local units of government, with the relative impact across the funds depending on the relative magnitude of reduction in sales tax revenue compared to the reduction in use tax revenue.

Vehicles purchased in one state for use in another are generally assessed a sales or use tax when transferred to and registered in the state in which they will be used, if the tax assessed by the state where the vehicle is purchased is less than the tax that would have been assessed on the transaction in the state in which the vehicle will be used. However, if the vehicle purchase involved the trade-in of a used vehicle, current law assesses a tax based on the full purchase price of the vehicle, including the value of the trade-in, if the vehicle was purchased from a dealer not licensed under Michigan statute. The bills would reduce the tax levy in this situation by the allowed portion applicable to the trade-in. As a result, the bills would lower the revenue collected from individuals who use a trade-in to help purchase a vehicle out-of-state and then transfer the purchased vehicle to Michigan.

Date Completed: 4-16-15

Fiscal Analyst: David Zin

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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.