LEGISLATIVE FISCAL OFFICE
Fiscal Note

Louisiana Legislative Fiscal Office Fiscal Notes

Fiscal Note On:	**HB 754** HLS 12RS 990
Bill Text Version:	**ORIGINAL**
Opp. Chamb. Action:	
Proposed Amd.:	
Sub. Bill For.:	

Date: March 20, 2012 12:02 PM

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Dept./Agy.: Economic Development/Revenue

Subject: State sales tax rebate for purchasing companies

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TAX/TAX REBATES OR SEE FISC NOTE GF RV

Authorizes state sales and use tax rebate contracts for certain businesses

Current law imposes a state sales tax of 4% of all tangible personal property.

Proposed law provides for a rebate of some portion of state sales tax for procurement processing companies (PPC) that generate transactions subject to state sales tax. The rebate will be a negotiated portion of the sales tax associated with transactions of the PPC. The Department of Economic Development (LED) is to negotiate and sign the contract with the PPC with the approval of the Governor, and the rebate will be paid by the Department of Revenue (LDR). Rebates are to be paid from the collections of all taxes provided for in Title 47. The contract term shall not exceed twenty years. As necessary, the Department of Revenue may promulgate rules.

EXPENDITURES	**2012-13**	**2013-14**	**2014-15**	**2015-16**	**2016-17**	**5 -YEAR TOTAL**
State Gen. Fd.	$253,000	$131,000	$131,000	$131,000	$131,000	**$777,000**
Agy. Self-Gen.	$0	$0	$0	$0	$0	**$0**
Ded./Other	$0	$0	$0	$0	$0	**$0**
Federal Funds	$0	$0	$0	$0	$0	**$0**
Local Funds	$0	$0	$0	$0	$0	**$0**
Annual Total	**$253,000**	**$131,000**	**$131,000**	**$131,000**	**$131,000**	**$777,000**

REVENUES	**2012-13**	**2013-14**	**2014-15**	**2015-16**	**2016-17**	**5 -YEAR TOTAL**
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Agy. Self-Gen.	$0	$0	$0	$0	$0	**$0**
Ded./Other	$0	$0	$0	$0	$0	**$0**
Federal Funds	$0	$0	$0	$0	$0	**$0**
Local Funds	$0	$0	$0	$0	$0	**$0**
Annual Total						

EXPENDITURE EXPLANATION

LED reports that the bill will not require additional resources as its role ends once the contract is negotiated. LDR must pay the rebate based on the calculations stipulated in the contract. Without knowledge of the contract's provisions, LDR suggests resource needs of 2 new positions (tax auditor and tax specialist costing $131,000) to evaluate and issue rebates for what could become a large set of monthly transactions. Initial setup of an e-file system and data capture processes could cost approximately $122,000. This is a material cost that might be absorbable in the existing budget, if not incrementally funded.

REVENUE EXPLANATION

As explained by proponents, the bill is intended for a specific firm, that will form in LA, which will obtain title to items purchased out of state for ultimate use out of state, thereby creating a LA sales tax liability that did not exist before. The tax will be paid by the ultimate purchasing company (final user) to the PPC who then remits the tax to the state. The PPC will then receive a rebate from the state of a negotiated percentage of the sales tax remitted (anticipated by the proponents to be 80-85%). The state receives collections it presumably would not otherwise receive (15-20%). Presumably, to market the service, the PPC shares a portion of its rebate receipts with the final user. The final user can typically take a credit against their sales/use tax liability in their state for the LA tax they paid to the PPC. Essentially, sales taxes are shifted from the states of the final user companies to the PPC, the final users, and the state of LA. The magnitude of potentially affected sales and associated sales taxes is speculative, and no specific amounts are anticipated in this fiscal note.

Given the unusual nature of this proposal, certain concerns about the bill should be noted:

1) The bill defines "New Taxable Sales" as all sales resulting from the operation of a PPC in the state. It is essential that existing sales taxed by the state not flow through a PPC and be eligible for a rebate. This could occur if the final purchasers are actually in-state firms, or possibly if in-state firms establish a purchasing affiliate out of state. Some process is necessary to determine that sales flowing through the PPC are truly new sales to the state's taxation.

2) It might be possible for firms currently operating in the state to form their own PPCs and receive rebates for their own sales tax payments.

3) Much of the program will be governed by a contractual arrangement stretching over 20 years, negotiated by LED but with rebate payments made by LDR. Those arrangements are not likely to be known to the legislature in advance and are critical to the state fiscal success of the proposal.

4) The bill provides that rebates are paid from all taxes provided for in Title 47, sales tax and virtually all other state taxes, as well as some local taxes, and no limit or maximum amount of rebate is provided. Presumably, rebates should be paid only from state sales taxes remitted by the PPC from true new sales.

5) Reciprocal agreements with other states may be involved, in that final purchasers may be crediting heir liability in other states while possibly receiving a portion of the LA tax they pay rebated back to them by the PPC.

6) As proposed, out of state firms may benefit from lower sales taxes while in state firms purchasing the same items (office supplies, for example) would be subject to the full state taxation. The program would be providing a competitive advantage to out-of-state firms that might ultimately compete with in state firms.

Senate	Dual Referral Rules	House
[x] 13.5.1 >= $100,000 Annual Fiscal Cost {S&H}		[ ] 6.8(F)1 >= $500,000 Annual Fiscal Cost {S}
[ ] 13.5.2 >= $500,000 Annual Tax or Fee Change {S&H}		[ ] 6.8(G) >= $500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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