



OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: H.B. 545 of the 132nd G.A.

Status: As Introduced

Sponsor: Rep. Arndt

Local Impact Statement Procedure Required: Yes

Subject: Modifies sales and use tax remittance by certain vendors

State & Local Fiscal Highlights

STATE FUND	FY 2019	FY 2020	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	Potential loss of up to \$38.7 million, depending on vendors choosing the alternative sales tax remittance	Minimal loss
Local Government Fund and Public Library Fund (counties, municipalities, townships, and public libraries)			
Revenues	- 0 -	Potential loss of up to \$1.3 million, depending on vendors choosing the alternative sales tax remittance	Minimal loss
Counties and transit authorities			
Revenues	- 0 -	Potential Loss of up to \$10.0 million, depending on vendors choosing the alternative sales tax remittance	Minimal loss

Note: The state fiscal year is July 1 through June 30. For example, FY 2018 is July 1, 2017 – June 30, 2018.

- The bill allows certain qualifying vendors to delay remitting sales tax from taxable credit sales until after the vendor has received a customer's payment. The delay will create a one-time decrease in state sales tax revenue and revenue from local county permissive and transit authority sales taxes. The size of the revenue decrease is dependent on the number of vendors that choose the alternative sales tax remittance provided by the bill.
- The change is effective January 1, 2020, making the one-time revenue loss likely to be realized in FY 2020. There would likely be minimal revenue losses during subsequent fiscal years.
- The state sales tax revenue loss would be shared by the state General Revenue Fund (GRF, 96.68%), the Local Government Fund (LGF, 1.66%) and the Public Library Fund (PLF, 1.66%). Funds deposited into the LGF and PLF are distributed to

counties, municipalities, townships, and public libraries according to statutory formulas and decisions by county budget commissions.

Detailed Fiscal Analysis

H.B. 545

The bill authorizes certain small vendors, beginning in 2020, to change the manner in which the vendor remits sales taxes on sales in which a customer pays for an item or service after the item is delivered or the service is actually provided. More specifically, the bill allows qualifying vendors to delay remitting sales tax from credit sales until after the vendor has received a customer's payment. This authority would be available on an annual calendar year basis.

To qualify for this option, a vendor must (1) have annual gross sales of no more than \$1 million in the preceding year and (2) qualify as a "microbusiness" for at least seven months of the preceding year.¹ If the vendor decides to remit taxes in this manner, it must do so for all credit sales made in a calendar year. If a customer makes a partial payment to the vendor for one of those credit sales, the vendor must remit sales tax on the partial payment. If any of these credit sales becomes bad debt, the vendor is required to report the bad debt and the identity of the defaulting customer to the Tax Commissioner on the return for the reporting period in which the vendor charges off the bad debt as uncollectible. Once reported, the vendor is absolved of liability for the unpaid sales tax on that debt.

Fiscal effect

A significant number of purchases are made on credit, with buyers settling their debts several weeks and potentially months after the transaction. The bill is permissive, thus certain sales tax taxpayers are likely to continue to remit sales taxes under current law, while others would choose the alternative permitted by the bill. The behavior of thousands of vendors as they assess the impact of the benefits and costs of the bill on their businesses cannot be forecasted. Though the bill would not change sales tax liabilities, the timing effects of the bill could cause a significant one-time revenue loss in the first fiscal year for which the bill was in effect.

The Economic Census for Ohio estimated that in 2012 about 159,000 firms had 20 employees or less and they had about \$120 billion in estimated receipts. Thus, it is more likely than not that the majority of those businesses with 20 employees or less during the year would have, on average, annual sales below \$1 million. Data from the Department of Taxation indicate that sales and use vendors with annual sales of \$1 million or less remitted about \$1.86 billion of the \$11.63 billion in state and permissive county and transit authority nonauto sales tax revenue in FY 2017, or

¹ A microbusiness employs fewer than the equivalent of 20 full-time employees, defined as 20 employees working the equivalent of 30 hours or more per week.

roughly \$155 million each month.² Of that total, monthly remittances from vendors that possibly qualify under the bill might be up to \$50 million.³ Thus, the revenue loss from the bill could be up to \$50 million the first year the bill is in effect, including \$10 million in permissive local sales taxes which share the same tax base as the state sales tax. Please note that the estimate above excludes vendors on a semiannual schedule (about half of all vendors), under the presumption that they would have more time to collect payment from customers before taxes are due.

Receipts from the state sales and use tax are deposited into the GRF. Under codified law a portion of GRF tax receipts is subsequently transferred to the LGF and PLF with each local fund receiving 1.66% of GRF tax revenue. The GRF revenue loss from the bill is uncertain, but may potentially be up to \$38.7 million and the LGF and PLF losses may total up to \$1.3 million. LSC is unable to provide a precise estimate of the fiscal cost of the bill as it depends on the number of qualifying vendors that choose to file under this parallel system. This Fiscal Note assumes the bill generally affects revenue in FY 2020 and most qualifying vendors elect to delay sales tax remittances during the fiscal year.

Sales tax remittance

State law prescribes the manner in which vendors must collect and remit sales taxes. Current law requires all vendors to charge the tax and remit the full amount of sales tax with the return for the reporting period in which the sale is made, which may require a vendor to remit sales tax before receiving the customer's payment in the case of credit sales. Sales tax remittances depend on the type of holder of a sales and use tax account and the amount of sales and use tax due. For example, monthly sales tax returns are due by the 23rd of the following month from the period filed, e.g., a sales tax return for sales made during the period January 1 through January 31 is due by February 23. Semiannual sales tax returns are due by the 23rd of the following month from the end of the six-month period. For example: a sales tax return for the period January 1 through June 30 is due on July 23 and that of the period of July 1 through December 31 is due on January 23. However, current law and the administrative code include numerous special provisions for certain types of account holders. For example, the calculation of the tax payment by fast food outlets, coin-operated vending machine operators, and construction contractors vary from the general rule. Other provisions apply to sales tax

² Taxpayers required to make accelerated payments by electronic funds transfer (EFT) account for the large majority of monthly sales and use tax revenues. Of 242,000 accounts, according to the Department of Taxation, 14,869 (about 6% of the total) were EFT taxpayers and their remittances were about \$10.01 billion (86% of total collections). These statistics exclude sales tax revenues from clerks of courts for motor vehicle sales.

³ This estimate excludes revenue from all taxpayers that file semiannual or quarterly sales tax returns, and revenue from other types of sales and use tax accounts who file monthly sales tax returns (e.g., masters accounts, transient accounts, direct pay accounts, out-of-state, and streamlined sales taxpayers).

vendors with sales tax liability exceeding \$75,000 per calendar year who are required to remit payment by electronic funds transfer (EFT) and to make advance payment of 75% of each month's anticipated tax by the 23rd day of that month, though they would also file a sales tax return by the 23rd of the next month and pay the balance of their tax due, along with that month's accelerated payment.

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