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H.B. 135
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Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Antani

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SUMMARY

- Increases the price threshold below which items of clothing, school supplies, and school instructional material are exempt from sales and use tax if purchased during an August three-day sales tax holiday.
- Exempts laptops, netbooks, and tablet computers priced less than \$2,000 purchased during a sales tax holiday from sales and use tax.

DETAILED ANALYSIS

Sales tax holiday

Continuing law prescribes a three-day period each August (specifically the first Friday in August and the following Saturday and Sunday) during which sales of certain items below a certain price are exempt from sales and use tax. This period is generally referred to a “sales tax holiday.” Currently, the following items are exempt if purchased during the holiday:

- Clothing priced \$75 or less.
- A school supply (items commonly used by students in a course of study, such as book bags, glue, paper, pens, and rulers) priced \$20 or less.
- School instructional material (reference books, textbooks, maps and globes, and workbooks) priced \$20 or less.

Price threshold

The bill increases the price threshold for each of these three categories by authorizing an exemption if the clothing, school supply, or school instructional material is priced \$100 or less.¹

Exemption of certain computers

The bill also exempts laptop, netbook, or tablet computers priced \$2,000 or less sold during the sales tax holiday. However, the holiday exemption does not extend to desktop computers, cellular phones, personal digital assistants, or an electronic reader, i.e., an “e-reader” (see **COMMENT**).²

COMMENT

Streamlined Sales and Use Tax Agreement

The bill’s provision subjecting certain types of computers to the sales tax holiday, e.g., laptop computers, but excluding other types of computers, e.g., desktop computers and e-readers, may conflict with Ohio’s obligations as a member of the Streamlined Sales and Use Tax Agreement (SSUTA).

The SSUTA was created by states in the wake of a U.S. Supreme Court decision that prohibited states from compelling mail-order retailers to collect and remit use tax.³ The SSUTA focuses on simplifying and reducing the differences in state and local sales and use tax codes with the objective of removing impediments to the collection of taxes on online sales, thereby convincing Congress to empower the states to more effectively collect these taxes. (The Supreme Court has since narrowed its original decision, but Ohio remains an SSUTA member.⁴)

The SSUTA sets specific guidelines and parameters for sales and use tax holidays that a member state such as Ohio may offer. Specifically, a state is permitted only to exempt the purchase of certain types of items specifically defined in the SSUTA as part of a sales and use tax holiday.⁵ For example, current law’s school supplies sales tax exemption applies to items specifically defined in the SSUTA – “clothing,” “school supplies,” and “school instructional materials,” each of which is further defined by an enumerated list of specific items. It is not clear whether a tax holiday for the purchase of a laptop, netbook, and tablet computer is within the SSUTA’s parameters, as those terms are not defined in the SSUTA.

¹ R.C. 5739.02(B)(56)(a)(i).

² R.C. 5739.02(B)(56)(a)(ii) and (b)(iv).

³ *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992).

⁴ *South Dakota v. Wayfair, Inc.*, 138 S. Ct. 2080 (2018).

⁵ Section 322(A)(1) of the SSUTA.

The term “computer” is defined in the SSUTA, but the definition is general (“any electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions”) and would presumably encompass devices such as cellphones that are explicitly excluded from the sales tax holiday under the bill.

HISTORY

Action	Date
Introduced	03-14-19
