



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number:	H. 3726	Signed by Governor on April 16, 2021
Author:	West	
Subject:	Gross Proceeds of Sales	
Requestor:	House of Representatives	
RFA Analyst(s):	Gallagher and Jolliff	
Impact Date:	August 17, 2021	

Fiscal Impact Summary

This bill amends Section 12-36-90(2) to exclude payments received from a buydown from the gross proceeds of a sale and, therefore, reduces the amount subject to sales taxes. A buydown is a contract between a retailer and manufacturer in which the retailer receives a payment from the manufacturer to lower the price of an item sold to the customer. This exclusion will not have an expenditure impact on the Department of Revenue (DOR). The department will implement the change in the definition of gross proceeds in the normal course of business.

DOR provided an updated advisory opinion effective July 1, 2021, stating that payments to retailers from companies, including those provided from buydowns and other promotional incentives, are includible in the gross proceeds of a sale and are, therefore, subject to sales tax. While taxes on these payments are not currently collected, growth in revenues from audits and compliance enforcement by DOR are part of the growth in tax revenues. Absent this legislation, General Fund revenue would increase in FY 2021-22 with this compliance effort. Since this bill exempts these buydowns from tax, the bill will reduce General Fund, Education Improvement Act (EIA), and Homestead Exemption (HEX) Fund, Fund sales tax revenue beginning in FY 2021-22. However, the exact amount of the impact is undetermined because data on the total amount of buydown sales occurring in the state are currently unavailable.

Explanation of Fiscal Impact

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State Expenditure

This bill amends Section 12-36-90(2) to exclude amounts received from a buydown from the gross proceeds of a sale. A buydown is a contract between a retailer and manufacturer in which the retailer receives a payment from the manufacturer to lower the price of an item sold to the customer. This exclusion will not have an expenditure impact on DOR. The department will implement the change in the definition of gross proceeds in the normal course of business.

State Revenue

This bill amends Section 12-36-90(2) to exclude amounts received from a buydown from the gross proceeds of a sale.

In SC Revenue Ruling #20-3, DOR provided an advisory opinion stating that payments to retailers from companies, including those provided from buydowns and other promotional payments, are includible in the gross proceeds of a sale as defined in Section 12-36-90 and are,

therefore, subject to sales tax. This revenue ruling stemmed from audits by DOR that determined a need to specify that these payments are to be considered part of the gross proceeds of the sale.

According to DOR, taxes on buydowns are not currently collected, but they are taxable under current law. In DOR's revenue ruling as revised in SC Information Letter #20-35, revenue from these payments would have been collected beginning July 1, 2021. Growth in revenues from audits and compliance enforcement by DOR are part of the growth in tax revenues. Absent this legislation, sales tax revenue would increase in FY 2021-22 with this compliance effort. Since this bill exempts these buydowns from tax, the bill is expected to reduce General Fund, EIA Fund, and HEX Fund sales tax revenue beginning in FY 2021-22. However, the exact amount of the impact is undetermined because data on the total amount of buydown sales occurring in the state are currently unavailable.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director