

GREEN SHEET REDIGEST

HB 772

2016 Regular Session

Abramson

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

TAX/TAX REBATES: Provides relative to contracts for procurement processing company rebates.

DIGEST

Present law authorizes the secretary of the Department of Economic Development enter into a contract with a procurement processing company to recruit to the state, purchasing companies that generate sales of items subject to the taxes imposed in this state the business of which have a significant positive economic benefit to the state. Provides the initial term of a contract to not exceed 20 years and shall be renewable for up to an additional 20. Requires that the contract provide an incentive to the procurement processing company to be paid in the form of a rebate of a portion of the state sales and use taxes collected on new taxable sales by a purchasing company which is managed by a procurement processing company. Requires that the contract include provisions that the procurement processing company expressly acknowledges, and the contract between the processing company and the purchasing company includes a provision, that if a rebate for new taxable sales is received, that the taxes on the new taxable sales remitted to the state by the purchasing company or affiliated entity or by the processing company will not constitute an overpayment which could be refunded. Proposed law retains these provisions.

Proposed law defines a "non-transactional event company" as a company that agrees to absorb the state sales taxes; has advertised this to customers or clients; has a contract with the state or a political subdivision of the state that ensures reimbursement of or protection, defense and indemnification to the company from sales tax if an existing sales tax exemption is removed, repealed or modified, or if a new sales or other tax is levied; and this contract may include a bid, invitation, or proposal that has been awarded to the state or a political subdivision of the state to host, conduct, join, or share in the occurrence of a special event when the special event requires protection from or reimbursement of any sales tax levied on the special event as a condition of the award and the special event is held in a facility owned by the state or a political subdivision of the state.

Proposed law defines a "non-transactional event rebate" as a rebate to a non-transactional event company by the Department of Revenue (DOR) for sales taxes absorbed and due to DOR but required to be reimbursed under a contract between the company and the state or a political subdivision of the state that ensures reimbursement of or protection, defense and indemnification of a non-transactional event company from a sales tax if a prior sales tax exemption is removed, repealed or modified, or if new sales tax is levied. The contract between the company and the state or political subdivision of the state shall be in effect and duly approved before any non-transactional event rebate may be authorized for that company.

Proposed law authorizes the secretary of DOR to execute a non-transactional event rebate contract with a non-transactional event company which provides for the identification and tracking of absorbed sales taxes as a non-transactional event rebate. Requires that the non-transactional event rebate contract provide for a rebate of sales tax properly absorbed; that it set forth a mechanism to certify the absorbed sales tax that corresponds to a non-transactional event rebate; and that it attach and reference the authorized contract between the non-transactional event company and the state or a political subdivision of the state. Provides that the contract may include the designation of a political subdivision of the state as the agent of the non-transactional event company for purposes of the absorption of the taxes. Requires that the contract treat the sales tax absorbed by the non-transactional event company as properly remitted sales tax and no additional transactions shall occur.

Proposed law requires that the secretary of DOR determine the amount of the non-transactional event rebate which shall be based on the amount of sales tax absorbed by the non-transactional event company and that this is deemed properly remitted to the state.

Proposed law requires that a non-transactional event rebate authorized by the secretary of DOR shall not result in any payment being made by DOR to the non-transactional event company and that the non-transactional event rebate shall only be recognized for purposes of identifying and tracking the sales tax absorbed by the non-transactional event company. Provides that no sales tax calculated as part of a non-transactional event rebate constitute an overpayment subject to a refund and the non-transactional event company shall not receive any vendor's compensation discount for the collection or absorption of sales tax.

Present law defines "new taxable sales" to mean the sale of goods and services upon which state sales and use tax is paid and which would not have occurred in the state but for the operation in the state of a procurement processing company. "New taxable sales" does not include any sales or purchases of services or property upon which such sales and use tax would have been due if the procurement processing company was not operating in the state.

Proposed law retains these provisions.

Proposed law provides that a non-transactional event rebate not be eligible for administrative expenses nor be subject to the disposition of collections resulting from new taxable sales as provided in present law.

Effective August 1, 2016.

(Amends R.S. 47:6351)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Delete all proposed law in the original bill.
2. Change the agency head authorized to enter into contracts for procurement processing company rebate contracts from the secretary of the DED to the secretary of the DOR.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the engrossed bill

1. Make technical corrections.
2. Change the agency head authorized to enter into contracts for procurement processing company rebate contracts from the secretary of the DOR to the secretary of the LED.
3. Authorize the secretary of revenue to enter into contracts for rebates with non-transactional event companies.