



**LEGISLATIVE FISCAL OFFICE**  
**Fiscal Note**

Fiscal Note On: **HB 847** HLS 14RS 475  
 Bill Text Version: **ORIGINAL**  
 Opp. Chamb. Action:  
 Proposed Amd.:  
 Sub. Bill For.:

|                                       |                                |
|---------------------------------------|--------------------------------|
| <b>Date:</b> March 27, 2014 4:34 PM   | <b>Author:</b> PUGH            |
| <b>Dept./Agy.:</b> Revenue            | <b>Analyst:</b> Deborah Vivien |
| <b>Subject:</b> Consumer Use Tax Form |                                |

TAX/SALES & USE OR INCREASE GF RV See Note Page 1 of 1

Requires the filing of an annual use tax return for the payment of use tax on taxable tangible personal property and services purchased from a remote seller

Current law requires a declaration and payment of use tax liabilities on state income tax forms, as calculated by the taxpayer.

Proposed law directs the Department of Revenue to create a use tax form to be filed by non-business consumers of tangible personal property before May 16 of each year. The taxpayer must either calculate an actual use tax liability or use safe harbor amounts published by the Department and recalculated annually based generally on U.S. Census Bureau data. If the safe harbor use tax is paid, there will be no retribution for actual use tax owed in excess of that amount. Though the bill contains safe harbor amounts of roughly 0.1% of AGI regardless of filing status, the bill also specifies that the Department will recalculate these amounts on January 1, 2015 and publish the results by March, presumably for use in the subsequent tax year. Those not filing a use return will be considered delinquent for the appropriate safe harbor amount plus a 10% penalty and interest, subject to all Department of Revenue collection practices. Effective with tax year 2015

| <b>EXPENDITURES</b> | <b>2014-15</b> | <b>2015-16</b> | <b>2016-17</b> | <b>2017-18</b> | <b>2018-19</b> | <b>5 -YEAR TOTAL</b> |
|---------------------|----------------|----------------|----------------|----------------|----------------|----------------------|
| State Gen. Fd.      | INCREASE       | INCREASE       | \$0            | \$0            | \$0            | <b>\$0</b>           |
| Agy. Self-Gen.      | \$0            | \$0            | INCREASE       | INCREASE       | INCREASE       | <b>\$0</b>           |
| Ded./Other          | \$0            | \$0            | \$0            | \$0            | \$0            | <b>\$0</b>           |
| Federal Funds       | \$0            | \$0            | \$0            | \$0            | \$0            | <b>\$0</b>           |
| Local Funds         | <u>\$0</u>     | <u>\$0</u>     | <u>\$0</u>     | <u>\$0</u>     | <u>\$0</u>     | <b>\$0</b>           |
| <b>Annual Total</b> |                |                |                |                |                |                      |

| <b>REVENUES</b>     | <b>2014-15</b> | <b>2015-16</b> | <b>2016-17</b> | <b>2017-18</b> | <b>2018-19</b> | <b>5 -YEAR TOTAL</b> |
|---------------------|----------------|----------------|----------------|----------------|----------------|----------------------|
| State Gen. Fd.      | \$0            | INCREASE       | INCREASE       | INCREASE       | INCREASE       | <b>\$0</b>           |
| Agy. Self-Gen.      | \$0            | \$0            | INCREASE       | INCREASE       | INCREASE       | <b>\$0</b>           |
| Ded./Other          | \$0            | \$0            | \$0            | \$0            | \$0            | <b>\$0</b>           |
| Federal Funds       | \$0            | \$0            | \$0            | \$0            | \$0            | <b>\$0</b>           |
| Local Funds         | <u>\$0</u>     | INCREASE       | INCREASE       | INCREASE       | INCREASE       | <b>\$0</b>           |
| <b>Annual Total</b> | <b>\$0</b>     |                |                |                |                | <b>\$0</b>           |

**EXPENDITURE EXPLANATION**

The Department of Revenue has not specified a cost impact but will presumably incur initial costs for creation of the form, establishing the filing system, advertising, etc., which could be substantial since the procedure will be new to all taxpayers, and an enforceable liability is created. The effort to educate may be more substantial than normal due to the tax/penalty consequences of not filing the new form, including finalized debt with penalty and interest subject to all LDR collection tools. The provision allowing for tax debt accumulation in the absence of filing is expected to be more prevalent among those filers not required to file a state income tax form.

**REVENUE EXPLANATION**

The bill is expected to result in an increase in SGF revenue, either as a result of increased voluntary payment of use tax or as a result of debt recovery as liabilities are incurred in the absence of filing the consumer use tax form. The state currently collects about \$1.5M in consumer use tax with half being distributed back to parishes by population. A Minnesota study estimates a three fold increase (or \$4.5M) in collections with a use tax look-up table. However, the safe harbor provisions in this bill are more stringent because an obligation is created in the absence of filing. If all taxpayers pay the stated safe harbor amounts, utilizing 2011 taxpayer data, the state would collect \$75M in additional Consumer Use Tax, though actual figures are expected to be significantly less than this since taxpayers may claim a consumer use obligation below the safe harbor calculation. The lowest safe harbor amount is \$4 per year (implies \$50 of purchases at combined state/local tax rate) and the highest is 0.08% of AGI for those with AGI greater than 100,000 (an AGI of \$1,000,000 would owe annual use tax of \$800 at safe harbor amounts; implies \$10,000 of purchases). Safe harbor amounts appear to be the same for single filers and head of household, if both have the same AGI.

It is not certain that substantial amounts will be collected without mandatory reporting requirements by online sellers or other means of attaining knowledge of use taxes owed. However, voluntary compliance will likely improve with the implementation of a formal procedure to calculate an appropriate safe harbor amount. On the contrary, since payment of the safe harbor amount negates any other consumer use tax liabilities, it is likely that those owing more than the stated safe harbor amount will pay less than their real obligation, which could lower collections if the taxpayer would have paid under current law. Thus, the net increase in collections is uncertain.

Additionally, with the ability to garnish bank accounts and refunds, suspend driver's licenses, etc., for the amount of the safe harbor liability plus penalties and interest for those failing to file the Consumer Use Tax Form, LDR may substantially increase penalty fee collections since the department is allowed to retain up to 25% of the debt recovery collections.

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|--|----------------------------|--------------|--|
| <u>Senate</u>  | <u>Dual Referral Rules</u> | <u>House</u> | <input checked="" type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}         |
| <input checked="" type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}       |                            |              | <input type="checkbox"/> 6.8(F)(2) >= \$500,000 State Rev. Reduc. {H & S}                  |
| <input checked="" type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} |                            |              | <input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} |

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