F I S C A L I M P A C T R E P O R T

SPONSOR Gallegos, DY/Neville **ORIGINAL DATE** 1/28/2020 **LAST UPDATED** 2/16/2020 **HB** 170/aHFl#1

SHORT TITLE Extend Small Business Saturday **SB**

ANALYST Iglesias

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY20	**FY21**	**FY22**	**FY23**	**FY24**		
--	($1.2) Or more	($1.3) or more	($1.5) or more	($1.6) or more	Recurring	General Fund
--	($0.8) Or more	($0.9) or more	($1.0) or more	($1.1) or more	Recurring	Local Governments

Parenthesis ( ) indicate revenue decreases

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HFl#1 Amendment

The House Floor #1 Amendment changes the sunset date to July 1, 2025.

Synopsis of Original Bill

House Bill 170 extends the sunset date for the deduction from gross receipts for certain businesses on the first Saturday after Thanksgiving from prior to July 1, 2020 to prior to July 1, 2028. There is no effective date of this bill. It is assumed that the effective date is 90 days after this session ends.

FISCAL IMPLICATIONS

The bill extends this delayed repeal date by 8 years, from the end of FY20 to the end of FY28. The Taxation and Revenue Department (TRD) provides the following information on the claims and cost of the deduction in FY18 and FY19.

	FY18	FY19
Number of Taxpayers Claiming Deduction	40	29
Amount of Deduction (in thousands)	$61.9	$30.6
Cost to State	$2,641	$1,304
Cost to Local Governments	$1,760	$869

The Taxation and Revenue Department (TRD) used claims of the deduction from FY20 in the estimation as a baseline, and an assumed growth rate of the deduction of 10 percent year-over-year was used to forecast the future years. For FY20 so far, TRD reports that 19 taxpayers separately reported that they claimed deductions totaling $30,567.63. However, TRD notes there is no penalty for not separately reporting, so there is very low reliability of this data. It is possible more businesses did take advantage of the tax deduction but lumped the amount claimed in with other deductions rather than separately reporting it on their return.

This bill may be counter to the LFC tax policy principle of adequacy, efficiency, and equity. Due to the increasing cost of tax expenditures, revenues may be insufficient to cover growing recurring appropriations.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

SIGNIFICANT ISSUES

The Taxation and Revenue Department provided the following discussion regarding the deduction being extended in this bill:

> "The intent of the deduction is to incentivize shopping at local small businesses. It both benefits small businesses as well as consumers.
>
> The requirements of the deduction may be overly onerous for taxpayers, and the benefit too small. Fiscally the legislation has a limited impact to the general fund and local governments, however the legislation may not be resulting in the induced impact that the legislation intends. This bill will reduce the overall General Fund revenue available for small businesses via targeted Economic Development actions, and other state expenditures that benefit small businesses such as education or infrastructure.
>
> Sales tax holidays are generally seen a poor tax policy, increasing the complexity of the tax code, increasing compliance and administration costs, and reducing revenue stability with an unclear benefit. They may be much more likely to shift the timing of sales instead of increasing overall sales."

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

Does the bill meet the Legislative Finance Committee tax expenditure policy principles?

1. **Vetted**: The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy (RSTP) Committee, to review fiscal, legal, and general policy parameters.
2. **Targeted**: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.
3. **Transparent**: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies.
4. **Accountable**: The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review the tax expenditure and extend the expiration date.
5. **Effective**: The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions "but for" the existence of the tax expenditure.
6. **Efficient:** The tax expenditure is the most cost-effective way to achieve the desired results.

LFC Tax Expenditure Policy Principle	Met?	Comments
Vetted	✗	The effects of the deduction or consideration of extending the delayed repeal date was not presented to LFC or RSTP
Targeted		"The purpose of the deduction provided by this section is to increase sales at small local businesses."
Clearly stated purpose	✓	
Long-term goals	✗	
Measurable targets	✗	
Transparent	✓	Annual reporting from TRD is required.
Accountable		
Public analysis	?	It is unclear whether the current reporting requirements would give sufficient information on the effectiveness of the deduction.
Expiration date	✓	Current repeal date is at the end of FY20. This bill proposes extending the repeal date to the end of FY28.
Effective		It is nearly impossible to determine whether this deduction induced sales at local businesses that would not have otherwise occurred, or whether the deduction simply shifts activity that would occur anyway to a day in which that activity would be tax-free.
Fulfills stated purpose	?	
Passes "but for" test	?	
Efficient	?	Given the low take-up rate of this deduction and the uncertainty regarding its effectiveness, a perhaps more effective/efficient means of stimulating sales at brick and mortar retail stores is to impose and collect gross receipts taxes from competing Internet retailers, as this could encourage more local shopping year-round. Legislation was enacted in 2019 (Chapter 270) to impose state GRT on remote sales beginning FY20 and to impose local GRT increments on remote sales beginning FY22.

Key: ✓ Met ✗ Not Met ? Unclear

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