



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number:	H. 3726	Introduced on January 27, 2021
Author:	West	
Subject:	Gross Proceeds of Sales	
Requestor:	House Ways and Means	
RFA Analyst(s):	Gallagher	
Impact Date:	February 23, 2021	

Fiscal Impact Summary

This bill amends Section 12-36-90(2) to exclude amounts received from a buydown as part of gross proceeds from a sale, and therefore reduce 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 advisory opinion effective January 1, 2020, stating that payments to retailers from tobacco companies, including those provided from buydowns and other promotional payments, are includible in the gross proceeds of a sale and are, therefore, subject to sales tax. RFA anticipates that excluding funds received from a buydown from sales tax will reduce General Fund, Homestead Exemption (HEX) Fund, and Education Investment Act (EIA) Fund sales tax revenue, likely beginning in FY 2021-22. However, the amount and timing of the impact are undetermined pending further discussion with DOR.

Explanation of Fiscal Impact

Introduced on January 27, 2021

State Expenditure

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

In SC Revenue Ruling 20-x [DRAFT – 1/23/2020], DOR provided an advisory opinion stating that payments to retailers from tobacco 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.

As the effective date of this revenue ruling was January 1, 2020, DOR's current position is that payments relating to buydowns are subject to sales tax. Since audit activity is an active process that produces revenue for the State's General Fund and Other Funds accounts and because the bill will exclude funds received from a buydown from sales tax, the bill is expected to reduce General Fund, HEX Fund, and EIA Fund sales tax revenue, most likely beginning in FY 2021-22. However, the amount and timing of the impact are undetermined pending further discussion with DOR.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director