BILL # SB1157 **TITLE:** internet sales tax; prohibition

SPONSOR: Gray **STATUS:** As Introduced

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FISCAL ANALYSIS

Description

The bill exempts the sale of property purchased over the internet from the state transaction privilege tax (sales tax) and use tax if the vendor does not have a "nexus" or physical presence within the state. It also exempts purchases made over the internet from municipal sales and use taxes, regardless of nexus.

Estimated Impact

The Department of Revenue (DOR) estimates that the bill would result in a use tax revenue loss of $(111) million, related to business to business internet sales. This amount includes a General Fund loss of $(99) million and a Proposition 301 loss of $(12) million. The JLBC Staff concurs with these estimates.

The bill would also result in a continuing foregone use tax General Fund revenue loss of approximately $(25) million from consumer purchases. Use tax liability is self-reporting, and DOR indicates that business to consumer use tax liability is generally unreported, and the revenue loss would be foregone revenue currently not collected.

The bill is estimated to have no fiscal impact with regards to sales taxes imposed on internet sales, as it codifies the state's current practice with respect to retail taxes on internet sales. Under current practice, if there is no nexus within the state, there is no sales tax liability. According to DOR, however, it is possible that some internet retailers with no nexus in the state are remitting sales taxes, and there could be some resulting revenue loss to the state. The amount is unknown.

Analysis

DOR based its estimate of the impact of this bill on methodology used by the California Board of Equalization. This methodology estimates the total amount of remote sales made in 2005 (the last year for which data is available), and backs out the estimated amount of catalog sales, assuming that the remaining sales were made over the internet. It is then assumed that the amount of internet sales made in the state reflects the relative population of that state to the total U.S. population. And finally, the California methodology assumes that 78% of internet sales are taxable.

DOR further assumed that, using data from Internet Retailers' Top 100 e-retailers list, 44% of internet sales were made by retailers with no nexus in the State of Arizona. Applying the California methodology, the above assumption regarding nexus and Arizona's population, DOR estimates that there are approximately $1.1 billion in business to consumer taxable internet sales, and approximately $4.5 billion in business to business taxable internet sales in the state.

Under current practice, both individual consumers and businesses are responsible for assessing and remitting use taxes to the state for purchases made over the internet from companies with no nexus in the state. Business to consumer use tax liability is generally unreported and unremitted by the consumer. Business to business use tax liability, however, is generally reported and remitted by the purchasing business.

DOR's estimates of $(28) million in foregone revenue on consumer internet sales and $(111) million in business to business internet sales are based on a 5.6% tax rate, including restricted Proposition 301 monies. Adjusting for the removal of Proposition 301 monies, the estimated impact is $(25) million in foregone revenue and $(99) million in lost revenue.

Local Government Impact

As indicated above, this bill would exempt purchases made over the internet from municipal sales and use taxes, regardless of nexus. This would have an undetermined negative impact on local sales and use tax revenues.

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