

Statement of Estimated State Revenue Impact

Date: February 19, 2014

Bill Number: H.B. 4660

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Committee Requesting Impact: House Ways & Means Committee

Bill Summary

A bill to amend Section 12-36-2691, of the Code of Laws of South Carolina, 1976, relating to sales tax nexus for certain distribution facilities, so as to provide that upon the inapplicability of this Section, any sales tax revenue resulting from the inapplicability must be credited to the State Highway Fund to be used exclusively for road and bridge improvement.

REVENUE IMPACT ^{1/}

This bill would reduce sales and use tax revenue by an estimated \$5,572,800 in FY2015-16. Of this amount, General Fund revenue would be reduced by \$3,715,200, the E.I.A. by \$928,800, and the Homestead Exemption Fund by \$928,800, which would be redirected to the State Highway Fund. In FY2016-17, this bill would reduce sales and use tax revenue by an estimated \$11,145,600. Of this amount, General Fund revenue would be reduced by an estimated \$7,430,400, the E.I.A. by \$1,857,600, and the Homestead Exemption Fund by \$1,857,600, which would be redirected to the State Highway Fund.

Explanation

This bill would amend Section 12-36-2691 to add sub item (D) to allow the Department of Revenue to credit any sales tax revenue resulting from the inapplicability of Section 12-36-2691 to the State Highway Fund to be used exclusively for road and bridge improvements. Section 12-36-2691 states that a taxpayer that utilizes a distribution facility, including a distribution facility of a third party or an affiliate, within South Carolina is not considered in determining whether the taxpayer has physical presence in South Carolina sufficient to establish nexus with South Carolina for sales and use tax purposes. This section no longer applies beginning January 1, 2016. This bill would direct any sales tax revenue resulting from the inapplicability of Section 12-36-2691 on January 1, 2016 must be credited to the State Highway Fund.

Based on information from the latest corporate annual report filed with the U.S. Securities and Exchange Commission, Amazon generated \$61,093,000,000 in annual net sales, with \$34,813,000,000, or 57.0 percent of net sales originating in North America calendar year 2012. Of this amount, net product sales accounted for 84.7 percent while the remaining 15.3 percent came from net service sales. Multiplying \$34,813,000,000 of North American net sales by 84.7 percent of taxable product sales and 70.0 percent of net sales originating in the U.S. (not from Canada or Mexico), and applying a one percent factor to adjust for net sales from South Carolina and a six percent sales and use tax rate yields an estimated \$12,384,000 in sales and use tax revenue annually.

While Section 12-36-2691 exempts the retailer from remitting sales tax, South Carolina residents are required to remit use tax on these sales. Although, there may be a high non-compliance of this remittance, it would be reasonable to assume a portion of the estimated \$12,384,000 is currently being reported and we estimate this to be no more than ten percent

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or \$1,238,400. Therefore, this bill would reduce General Fund revenue by an estimated \$7,430,400, the E.I.A. by \$1,857,600, and the Homestead Exemption Fund by \$1,857,600, which would be redirected to the State Highway Fund. The impact on the State Highway Fund would also include a portion of the non-compliance amount of \$11,145,600. Because this bill would direct any sales tax revenue resulting in the inapplicability of Section 12-36-2691 on January 1, 2016, this bill would reduce sales and use tax revenue by an estimated one-half of the annual amount, or an estimated \$5,572,800 in FY2015-16. Of this amount, General Fund revenue would be reduced by \$3,715,200, the E.I.A. by \$928,800, and the Homestead Exemption Fund by \$928,800, which would be redirected to the State Highway Fund. Given that this amount is dependent upon the business activity of one retailer, the risk of variation would be higher than usual and we would urge caution on the budgeting of these funds.



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^{1/} This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.