SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416

BILL NUMBER:
A-1039

DATE OF INTRODUCTION:
January 8, 2002

SPONSOR:
Assemblyman Malone
Assemblyman Cottrell

DATE OF RECOMMENDATION:
February 26, 2002

IDENTICAL BILL:

COMMITTEE:
Assembly Banking and Insurance

DESCRIPTION:
The Bill provides a sales tax exemption for the purchase of an automobile to replace a stolen vehicle to the extent of insurance proceeds received by the party suffering a loss.

ANALYSIS:
This exemption benefits a specialized group and does not promote horizontal equity. Horizontal equity suggests that sales tax legislation be broadly based and taxes similar transactions, persons or things in a similar manner. Tax treatment should be uniform from one taxpayer to another. This proposal creates disparity between stolen passenger vehicles and other valuable property; for example boats, electronic equipment, jewelry, trucks, etc.

This Bill lacks vertical equity, which suggests proportionality among taxpayers according to ability to bear the tax burden is desirable. This Bill gives preferential treatment to passenger automobiles covered by insurance. This creates a windfall to insurance indemnified passenger automobile losses. There is no relief under this Bill for a person who cannot afford theft insurance when that party suffers a loss and makes a purchase to replace stolen property.

The exemption does not meet the test of simplicity. Simplicity requires that sales tax legislation be drafted in such a manner to allow vendors to ascertain their tax collection responsibilities simply by reviewing the provisions of the proposed legislation itself, without resort to interpretative regulations that could in themselves add to the complexity of administration. The proposed Bill as written is not clear on what a “passenger vehicle” is or further identifies who qualifies for exemption. Thus, for example, does a sport utility vehicle qualify even though it is classified as a truck? The Bill also requires interpretation of the phrase “within 6 months of payment” because it is vague and ambiguous. In some cases, it takes substantial time to receive an insurance proceed. In the absence of specific statutory direction on this topic, there would be significant confusion on what purchases would qualify for this exemption. Thus, for example, would the purchase of a replacement vehicle by an insured before receiving his insurance proceed qualify for this exemption? Simplicity is crucial to the effective implementation of sales and use tax legislation. The Bill's lack of simplicity could result in significant taxpayer confusion and create needless litigation over terms that should be defined in the legislation for clarity.

There are no strong tax policy reasons to support this exemption. Enactment of special exemptions for purchases of socially desirable merchandise tend to create an increased demand for similar exemptions for other good, useful, necessary, or politically favored purchases. Such piecemeal small exemptions alter the broad-based nature of the sales and use tax and reduce its credibility as a fairly administered and simple to understand tax. A broad-based tax, imposed with limited exemptions on a wide range of transactions, is easy to understand and administer, and is generally perceived as economically neutral and "fair". When imposed at a fairly low rate, the burden, per transaction, on the individual taxpayer, is relatively small, but the cumulative revenue generated can be enormous. An exemption for the purchase of an automobile to replace a stolen vehicle to the extent of the insurance proceeds received by the party suffering a loss would save an individual taxpayer a fairly insignificant sum. However, the cumulative loss of revenue to the State could be substantial, leaving the State to find other means of generating the funds lost as a result of another exemption.

RECOMMENDATION:
The Commission does not recommend enactment of this Bill.

COMMISSION MEMBERS FOR PROPOSAL: 0

COMMISSION MEMBERS AGAINST PROPOSAL: 7

COMMISSION MEMBERS ABSTAINING: 1

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