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

BILL NUMBER:
A-4113

DATE OF INTRODUCTION:
March 15, 2007

SPONSOR:
Assemblyman Gusciora

DATE OF RECOMMENDATION:
June 28, 2007

IDENTICAL BILL:
S-749

COMMITTEE:
Assembly Environment and Solid Waste Committee

DESCRIPTION:
This bill provides for a sales tax exemption for advanced technology partial zero emission vehicles and it imposes a surcharge on certain automobiles.

ANALYSIS:
This bill is proposed to amend the Sales and Use Tax Act, N.J.S.A. 54:32B-1, et. seq., to provide an exemption for sales of advanced technology partial zero emission vehicles.

Although the bill does not specifically exempt leasing or rental transactions, it is assumed that leasing and rental transactions of qualifying vehicles would also be exempt since the Sales and Use Tax Act includes leases and rentals in the definition of "retail sale." N.J.S.A. 54:32B-2(e).

The Sales and Use Tax Act already contains an exemption for zero emission vehicles which are vehicles certified pursuant to the California Air Resources Board zero emission standards for the model year. N.J.S.A. 54:32B-8.55. However, this exemption is not applicable to advanced technology partial zero emission vehicles.

The sales tax exemption on advanced technology partial zero emission vehicles could open the door for similar tax exemptions on devices that may also be viewed as good for the environment. Any such devices that would be beneficial for environmental purposes should require a careful evaluation to determine whether it is worthy of a tax exemption to encourage its use. Generally, the Division does not favor the use of tax policy as a means of influencing consumers' purchasing decisions and other behavior, even though the behaviors promoted might be beneficial to the State.

Additionally, the exemption would further alter the broad-based nature of the sales and use 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 or lease of advanced technology partial zero emission vehicles would save an individual taxpayer a fairly insignificant sum every year. However, the cumulative loss of revenue to the State on big-ticket items, such as automobiles, is substantial, leaving the State to find other means of generating the money lost as a result of this exemption. Considering the State's current budgetary crisis, this bill is particularly troubling and the exemption is not recommended as a matter of tax policy.

In addition beginning January 1, 2009, the bill imposes a fee in addition to existing motor vehicle registration fees, on new passenger automobiles that are classified as low emission vehicles or, under certain circumstances, ultra low emission vehicles. The fee would be determined annually, by dividing the estimated amount of lost sales tax revenue each fiscal year by the number of low emission vehicles sold in the preceding fiscal year. Should the fee exceed $1,000 per automobile using this method, then the fee would be determined by dividing the estimated amount of lost sales tax revenue each fiscal year by the number of low emission vehicles and ultra low emission vehicles sold in the preceding fiscal year. Finally, the bill would eliminate the existing additional fee imposed on new passenger automobiles that have an average fuel efficiency rating of less than 19 miles per gallon.

The attempt to offset the loss of sales tax that would result from exempting advanced technology partial zero emission vehicles by assessing an additional surcharge on certain other vehicles may cause the purchasers of other vehicles to feel aggrieved for "subsidizing" the sales tax loss incurred by the State resulting from the exemption afforded to advanced technology partial zero emission vehicles. Additionally, lower-priced vehicles that compete with the vehicles subject to this bill would then be priced higher (as a result of the 7% sales tax which continues to apply) and therefore may be disadvantaged in the marketplace.

Market behaviors that may result from this initiative, including adverse selection (aimed at non-advanced technology partial zero emission vehicles) could result in such a great loss in sales tax receipts that the surcharge, when calculated for those future years, even further burdens "luxury car" purchasers. These taxpayers may begin to purchase luxury vehicles that are also advanced technology partial zero emission vehicles, resulting in the potential for steeper future increases in the surcharge. Price elasticity for luxury vehicles affected by the surcharge is unknowable.

If the legislature wishes to reward certain behaviors (purchases of certain types of vehicles), it would appear more fiscally prudent to proffer grants or other specific economic inducements from the State budget to consumers who purchase these eligible vehicles than to risk unknown impacts on a stable general source of revenue (the sales tax).

Finally, based on the lack of specificity in the bill, the models of advanced technology partial zero emission vehicles currently available are unknown.

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

COMMISSION MEMBERS FOR PROPOSAL: 0

COMMISSION MEMBERS AGAINST PROPOSAL: 6

COMMISSION MEMBERS ABSTAINING: 0

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