

SUBJECT: Applying state sales-and-use taxes on vehicles sold at government auctions

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 5 ayes — Keffer, Ritter, Otto, Paxton, Pena

0 nays

4 absent — Bonnen, Y. Davis, Flores, Pitts

WITNESSES: For — Donald McClure

Against — None

BACKGROUND: Under Tax Code, sec. 152.0412, enacted by HB 4 by Swinford, 79th Legislature third called session, an individual is required to pay the state's 6.25 percent motor vehicle sales-and-use tax on the amount paid for a vehicle if the amount paid is at least 80 percent of the vehicle's "standard presumptive value." Standard presumptive value is based on a regional guidebook of a national industry reporting service, such as the *Kelley Blue Book*. If an individual pays less than 80 percent of a vehicle's standard presumptive value, then the individual must pay the tax on 80 percent of the vehicle's value, unless the vehicle's retail value is shown on an invoice provided by a motor vehicle dealer or on a certified appraisal. In that case, the tax is levied on the value shown on the receipt, invoice, or appraisal.

These requirements do not apply to transactions involving an even exchange of vehicles or a gift, nor do they apply to abandoned or disposed motor vehicles.

DIGEST: HB 261 would exempt a motor vehicle sold by a federal, state, or local governmental entity at public auction from the provisions in current law governing taxation on a vehicle's standard presumptive value. This exemption would include abandoned vehicles sold at auction by a governmental entity.

HB 261 would take effect September 1, 2007, and would apply only to tax liability accruing on or after that date.

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**SUPPORTERS SAY:**

HB 261 would address an oversight in the recently enacted law that requires consideration of standard presumptive value when calculating taxes due on a used motor vehicle. The bill would exempt from these mandates vehicles bought at government auction. Currently, the sales-and-use tax on a vehicle bought at government auction must be levied on at least 80 percent of that vehicle's "blue book" value. This requirement should not apply to government auctions, the proceeds from which benefit public institutions and law enforcement agencies.

Seized or used vehicles sold at government auction generally are sold for significantly less than their blue book value. Often, these vehicles have been damaged in law enforcement activities or were abandoned. In many cases, the amount of tax due based on the standard presumptive value would be greater than the amount paid at auction. The cost of a certified appraisal can be up to \$300, significantly more than the tax liability for the vehicle. Current law allows an exemption for a vehicle sold by a dealer, and it is only appropriate that an exemption also be allowed for governmental entities.

It is extremely unlikely that a governmental entity would falsify the price listed on a bill of sale for a vehicle bought at auction. Also, according to the Legislative Budget Board, HB 261 would have no negative fiscal impact because any differences between a "presumptive value" and the actual price paid would be insignificant. Sales at public auction are considered "arms-length" transactions, and the sales price likely would reflect the actual value of the vehicle.

**OPPONENTS SAY:**

HB 261 could open the door for a governmental entity or individual to present a falsified bill-of-sale listing an incorrect price for an auctioned vehicle. The only way to absolutely ensure accurate taxation of used vehicle transactions is by requiring a certified appraisal of a used vehicle.