

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/06/2019**

Amendment to: HB 1158

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                | 2017-2019 Biennium |             | 2019-2021 Biennium |             | 2021-2023 Biennium |             |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| Revenues       |                    |             |                    |             |                    |             |
| Expenditures   |                    |             |                    |             |                    |             |
| Appropriations |                    |             |                    |             |                    |             |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

|                  | 2017-2019 Biennium | 2019-2021 Biennium | 2021-2023 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties         |                    |                    |                    |
| Cities           |                    |                    |                    |
| School Districts |                    |                    |                    |
| Townships        |                    |                    |                    |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed HB 1158 removes a requirement that purchasers owe state and local sales and use tax when a retailer has failed to charge the tax at the time of the sale.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 exempts purchasers from sales tax if the retailer failed to collect the sales tax and the transaction was less than \$5000.

Section 2 exempts entities from use tax if it is not charged at the time of the transaction and if the transaction was less than \$5000.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

As a result of the recent US Supreme Court decision in *SD v. Wayfair*, most household purchases will be subject to the statutory amount of sales tax collected at the point of sale, and will be unaffected by the provisions of this bill. Business purchases have historically been subject to sales tax auditing and additional use tax is frequently found to be due. This is still expected to occur even after the *Wayfair* decision, although use tax may be due less frequently post-*Wayfair*. Engrossed HB 1158, if enacted, would eliminate the audit collections for those business purchases under \$5000 on which the tax was not paid at the time of the purchase. This will result in a loss of state general fund and state aid distribution revenues, in an amount that cannot be determined.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

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