

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1054

Bill Subtitle: TO AMEND THE LAW CONCERNING SALES TAX REQUIREMENTS FOR SPECIAL EVENTS; AND TO ALLOW THE SALES TAX EXEMPTION FOR ISOLATED SALES TO APPLY AT SPECIAL EVENTS.

Basic Change :

Sponsor: Rep. Beck

HB1054 would extend the “isolated sales” sales and use tax exemption on the sale of tangible personal property, specified digital products, or a digital code at a special event to a purchaser if the seller is not an established business or the sale is not made in an established manner. “Isolated sales” are one-time sales of items, or group of items not made by an established business of any kind or character and do not include the sale of motor vehicles, trailers, semi-trailers, mobile homes, or airplanes. Under current law, the isolated sales exemption is not available for sales made at a special event.

A “special event” means an entertainment, amusement, recreation or marketing event which occurs at a single location on an irregular basis and where tangible personal property is sold. See § 26-52-518(a)(3). An “established business” is any business operated or conducted by any person in a continuous manner for any length of time from an established place or in an established manner. See § 26-52-103(17).

This bill provides for an effective on the first day of the calendar quarter following the effective date of the Act. For purposes of the revenue impact below, an effective date of October 1, 2021 is assumed.

Revenue Impact :

FY 2022

**Total Approximate State
Sales and Use Tax Loss**

\$ - 180,000

(Estimated Effective Date 10/1/21 --- 8 months reduced tax collection)

General Revenue --- 4.5%

\$ - 120,628

Property Tax Relief - .5%

\$ - 13,403

Conservation Fund - .125%

\$ - 3,351

Educational Adequacy Fund - .875%

\$ - 23,455

Highway Fund - .5%

\$ - 13,403

Educational Excellence Trust Fund -

\$ - .000

Educational Adequacy (GR Transfer) -

\$ - .000

State Central Services ---

\$ - 3,960

Constitutional Officers ---

\$ - 1,800

**Total Approximate Local City and
County Sales and Use Tax Loss**

\$ - 60,000

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FY 2023

	\$ - 270,000
Total Approximate State Sales and Use Tax Loss	
General Revenue --- 4.5%	\$ - 162,377
Property Tax Relief - .5%	\$ - 20,105
Conservation Fund - .125%	\$ - 5,026
Educational Adequacy Fund - .875%	\$ - 35,183
Highway Fund - .5%	\$ - 20,105
Educational Excellence Trust Fund -	\$ - 17,057
Educational Adequacy (GR Transfer) -	\$ - 1,508
State Central Services ---	\$ - 5,940
Constitutional Officers ---	\$ - 2,700
Total Approximate Local City and County Sales and Use Tax Loss	\$ - 90,000

[Statistical data derived using information currently received by the Department of Finance and Administration (DFA) from special events operators throughout the State.]

Taxpayer Impact :

A seller not operating as an established business who conducts sales at a special event will no longer be required to collect sales and use tax and report and pay the tax to the promoter at the end of the special event.

Resources Required :

None.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Updates to the sales and use tax rules will need to be promulgated.

Other Comments :

Existing Arkansas law requires that a special event promoter request and maintain the seller's current sales and use tax permit in order to forego the requirement to collect sales and use tax from the seller on their transactions at the event. This proposal will place the burden of determining if a seller is engaged in an established business on the special event promoter and may require the collection of an affidavit or other supporting documentation from the seller.

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Legal Analysis :

HB1054 modifies the requirements for the collection and remittance of sales tax at special events. Under § 26-52-518(c), vendors not otherwise required to hold a sales tax permit ("special event vendors") must collect sales tax on sales made at a "special events." The special event vendor then tenders the sales tax and report of sales to the special event organizer or promoter, who remits the sales tax to DFA. A "special event" is defined as an entertainment, amusement, recreation or marketing event occurring at a single location on an irregular basis and include events such as flea markets, art shows, auto and boat shows, gun shows, home shows, carnivals and bazaars.

§ 26-52-518(c)(2) specifically states that the isolated sales exemption found in § 26-52-401(17) shall not apply to sales made at special events. Generally, an isolated sale is a one-time sale of an item, or a group of items. Isolated sales are only exempt if they are not made by an established business or in an established manner.

HB1054 removes the exception to the isolated sales exemption for special events. The allowance of the isolated sale exemption on special event sales may create administrative difficulty for DFA to ensure compliance by special events vendors to collect and remit the appropriate sales tax.