

Department of Finance and Administration

Legislative Impact Statement

Bill: SB479

Amendment Number: S1

Bill Subtitle: TO PROVIDE RELIEF FOR RESTAURANTS; TO ALLOW RESTAURANTS TO EXPAND OUTDOOR DINING; TO DELAY THE PAYMENT OF RESTAURANT SALES TAXES; TO CAP THE FEES THAT A THIRD-PARTY DELIVERY SERVICE MAY CHARGE; AND TO DECLARE AND EMERGENCY.

Basic Change :

Sponsor: Sen. C. Tucker

Senate Amendment No. 1 --- SB479-S1 (engrossed 3/22/21) revises the filing schedule detailed in the original bill to reduce the allowed delay in the remittance of sales tax and sales tax returns. The amendment also provides that restaurants will still be eligible for the discounts for early payment if they follow the schedule. Restaurants may delay remittance of sales tax and the filing of monthly sales tax returns that are due to the Department of Finance and Administration (DFA) as follows:

- Sales tax remittances and reports for sales tax collected in March, April, and May of 2021 are not due until June 20, 2021;
- Sales tax remittances and reports for sales tax collected in June, July, and August of 2021 are not due until September 20, 2021;
- Sales tax remittances and reports for sales tax collected in September, October, and November of 2021 are not due until December 20, 2021; and
- Sales tax remittances and reports for sales tax collected in December of 2021 and January and February of 2022 are not due until March 20, 2022.

This section is effective until March 20, 2022 and is not to be codified.

Original Bill --- SB479 provides relief to restaurants in the state that were impacted by COVID-19. The bill provides three categories of relief, including: (1) easing restrictions on the expansion of outdoor dining; (2) requiring a cap on fees by third-party delivery services; and (3) allowing a delay in the remittance of sales tax and sales tax returns.

Expansion of Outdoor Dining - SB479 eases restrictions on the expansion of outdoor dining for restaurants with a valid alcoholic beverage permit from the Alcoholic Beverage Control Division (ABC). The expansion will only require approval from the local zoning authority, with notice to ABC. Prior approval from ABC will only be required if the expansion could result in a change to the restaurant's type of alcoholic beverage permit.

Cap on Fees - SB479 places a cap on fees charged by third-party delivery services. Third-party delivery services are not permitted to charge a fee of more than 15% of the purchase price of the online order, exclusive of sales tax, gratuities, and fees. This restriction is only effective for 90 days following the termination of the COVID-19 emergency and is not to be codified.

Sales Tax Delay - SB479 establishes a schedule that allows restaurants to delay remittance of sales tax and the filing of monthly sales tax returns that are due to the Department of Finance and Administration as follows:

- Sales tax remittances and reports for sales tax collected in March of 2021 are not due until July 1, 2021;

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- Sales tax remittances and reports for sales tax collected in April, May, and June of 2021 are not due until September 1, 2021;
- Sales tax remittances and reports for sales tax collected in July, August, and September of 2021 are not due until January 1, 2022; and
- Sales tax remittances and reports for sales tax collected in October, November, and December of 2021 and January of 2022 are not due until March 1, 2022.

No late fees or penalties will be assessed if the taxpayer follows the schedule. This section is only effective until March 1, 2022 and is not to be codified.

SB479 contains an emergency clause which provides that it will become effective on the earliest of the following: (1) the date of its approval by the Governor; (2) if the Governor neither approves nor vetoes the bill, the expiration of the period of time during which the Governor may veto the bill; or, (3) if the Governor vetoes the bill, the date the last house overrides the veto.

Revenue Impact :

No impact to State General Revenue. Undetermined revenue impact to city and county governments that levy a sales or use tax.

[The State of Arkansas as well as city and county governments will experience a temporary shift of monthly revenues from restaurant sales. This industry is typically required to file and remit these taxes on a monthly basis. If this bill were to pass, they would now have the option to file and pay those taxes on a quarterly basis for the periods specified in the bill.]

Taxpayer Impact :

Restaurants would be provided a temporary deferment of sales and use tax filing and remittances beginning with sales taxes collected in March 2021 through February 2022.

Resources Required :

Computer programs, tax forms, and instructions will need to be updated. Department employees will need to be educated as well as the taxpayer community.

Time Required :

Additional time would be necessary for implementation.

Procedural Changes :

Updates to the Sales and Use Tax Rules will need to be promulgated.

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Other Comments :

None.

Legal Analysis :

None.