



**Colorado
Legislative
Council
Staff**

HB16-1187

**FINAL
FISCAL NOTE**

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0523
Prime Sponsor(s): Rep. Kraft-Tharp
Sen. Holbert

Date: August 26, 2016
Bill Status: Signed into Law
Fiscal Analyst: Greg Sobetski (303-866-4105)

BILL TOPIC: SALES AND USE TAX EXEMPTION RETIREMENT COMMUNITY FOOD

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue	Minimal decrease.	
State Expenditures		
TABOR Impact		Minimal decrease.
Appropriation Required: None.		
Future Year Impacts: Ongoing minimal state revenue decrease.		

Summary of Legislation

Beginning FY 2016-17, the bill creates sales and use tax exemptions for food and food packaging to be consumed by residents on the premises of a retirement community. The exemption encompasses both purchases and sales by a retirement community, provided that consumption of the food or food packaging is to occur on the community's premises. Specific provisions are included for the exemption of prepared food, including premade salads and sandwiches. Retirement communities to which the bill applies include:

- assisted living residences;
- nursing care facilities that provide services to people requiring continuous or regular inpatient nursing care; and
- independent living facilities specifically serving as the primary residence for people age 55 and older.

Background

State law includes a sales and use tax exemption for most food and beverages purchased for home consumption. The Department of Revenue has determined that certain foods served at retirement communities do not satisfy the terms of the exemption, and that the exemption therefore does not apply to all sales. Foods and beverages determined to be ineligible for the exemption include carbonated water marketed in containers, prepared salads and salad bars, and cold sandwiches. A portion of retirement community food sales are not taxed because they qualify for other exemptions, including, for example, the tax exemption for sales to government entities.

State Revenue

The bill is expected to reduce state General Fund revenue by a minimal amount beginning in FY 2016-17.

Assumptions. Staff identified one retirement community that is expected to remit tax for sales of food to residents under current law. For this reason, the bill is expected to reduce state General Fund revenue by a minimal amount.

In FY 2013-14, the state collected sales and use tax totaling \$175,000 from businesses registered as nursing and residential care facilities. Taxes were collected from 118 such businesses. Based on these amounts, it is assumed that most retirement communities are not remitting taxes for sales of food to residents under current law. A survey of retirement communities found that the majority of tax payments were remitted for sales of food and beverages to employees and guests, and that none of the retirement communities surveyed remitted taxes for sales of food to residents. The revenue decrease in this section is understated to the extent that retirement communities remit sales taxes for food sold to residents under current law, or will do so in the future without the bill's enactment.

TABOR Impact

To the extent that the bill reduces state revenue from sales taxes, it will reduce the amount of money required to be refunded under TABOR for FY 2017-18. TABOR refunds are paid out of the General Fund. Since the bill reduces both revenue to the General Fund and the refund obligation by equal amounts, there is no net impact on the amount of money available in the General Fund for the budget.

The state is not expected to incur a TABOR refund obligation for FY 2016-17.

Local Government Impact

Revenue to local governments will decrease by a minimal amount beginning in FY 2016-17. The bill will reduce sales taxes collected by statutory counties, municipalities, and special districts to the extent that food and food packaging sold to retirement community residents is not already exempt from local sales tax, and to the extent that sales and consumption occur in each statutory taxing jurisdiction.

Effective Date

The bill was signed into law by the Governor and it effect on June 1, 2016.

State and Local Government Contacts

Counties	Corrections	Health Care Policy Financing
Human Services	Information Technology	Local Affairs
Military Affairs	Municipalities	Public Health and Environment
Revenue	Special Districts	