



**Colorado
Legislative
Council
Staff**

SB17-112

**FINAL
FISCAL NOTE**

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

Drafting Number: LLS 17-0807
Prime Sponsor(s): Sen. Neville T.
Rep. Pabon

Date: May 16, 2017
Bill Status: Signed into Law
Fiscal Analyst: Greg Sobetski (303-866-4105)

BILL TOPIC: SALES AND USE TAX PAYMENT TO WRONG LOCAL GOVERNMENT

Fiscal Impact Summary	FY 2016-2017 <i>(current year)</i>	FY 2017-2018	FY 2018-2019
State Revenue			
State Expenditures	Workload increase.		
Appropriation Required: None.			
Future Year Impacts: Ongoing state workload increase.			

Summary of Legislation

Under current law, taxpayers who are determined to have made a disputed local government sales or use tax payment to the wrong jurisdiction are relieved of their obligation for the disputed tax and associated penalties and interest. The bill clarifies that this provision is not subject to any state, local, or intergovernmental statute of limitations. The bill applies to disputed sales or use tax payments in home rule counties and municipalities, statutory counties and municipalities, and other taxing districts.

Beginning January 1, 2018, the bill denies relief to taxpayers who remit taxes to the wrong jurisdiction, receive a notice from the correct jurisdiction providing instructions for their compliance, and fail to comply with the instructions in the notice when remitting taxes on similar transactions occurring more than 90 days after receipt of the notice. Notices must be sent by mail or a nationally recognized courier service and must instruct the taxpayer to pay tax to the correct local government. Taxpayers are entitled to relief if they receive contradictory notices from different local governments.

Background

Under current law, if the Department of Revenue determines that a disputed sales or use tax payment was made to the wrong jurisdiction, the taxpayer is relieved of the tax due up to the amount paid, as well as associated penalties and interest. In a 2014 court case, *Qwest Corp. v. City of Northglenn*, a state court of appeals applied the state's three year statute of limitations for use tax payments, ruling that this remedy was not available to a taxpayer who had erroneously paid use taxes to the City of Northglenn rather than the City of Thornton between 2002 and 2005. As a result of the case, the taxpayer was required to pay the disputed amount to the City of Thornton after having already paid the amount to the City of Northglenn.

State Expenditures

The bill is expected to increase workload in the Department of Revenue and the Judicial Department beginning in the current FY 2016-17.

Department of Revenue. The department hears disputes between taxpayers and local governments in cases where local remedies have been exhausted. The bill is expected to result in the advancement of tax disputes where a taxpayer who had made a sales or use tax payment to the wrong jurisdiction was deterred from seeking remediation based on the court's application of a statute of limitations in *Qwest Corp. v. City of Northglenn*. The number of affected cases is assumed to be small, and the resulting increase in caseload can be accomplished within existing departmental appropriations.

Judicial Department. The bill is expected to increase state court caseload for appeals of Department of Revenue decisions in disputes between taxpayers and local governments. The number of appealed cases is assumed to be small, and the resulting increase in caseload can be accomplished within existing departmental appropriations.

Local Government Impact

The bill is expected to reduce local government revenue from sales and use taxes, penalties, and interest beginning in the current FY 2016-17. Local governments will only be affected to the extent that they incorrectly received sales or use tax payments due to another jurisdiction at least three years ago. Under current law and the court's interpretation in *Qwest Corp. v. City of Northglenn*, local governments are not responsible for forwarding erroneously received payments to the jurisdiction to which they were due if the dispute is brought outside the three year statute of limitations. The bill requires that payments be forwarded in these cases. Because the number of affected cases is assumed to be small, the revenue impact will vary across individual local jurisdictions.

Effective Date

The bill was signed into law by the Governor and took effect on April 18, 2017. It applies to all assessments of sales and use tax that were not finalized before the bill's effective date.

State and Local Government Contacts

Counties
Municipalities
Special Districts

Information Technology
Regional Transportation District

Judicial
Revenue