

- SUBJECT:** Imposing motor-vehicle sales tax on most vehicles transferred by gift
- COMMITTEE:** Ways and Means — committee substitute recommended
- VOTE:** 8 ayes — Oliveira, Bohac, Hartnett, Hilderbran, C. Howard, P. King, Peña, Villarreal
- 0 nays
- 3 absent — Otto, Paxton, Taylor
- WITNESSES:** For — Tony Yzaguirre, Jr., Cameron County Tax Assessor-Collectors Office; (*Registered, but did not testify*: Rick Camarillo, Cameron County Tax Assessor-Collector's Office)
- Against — None
- BACKGROUND:** Tax Code, sec. 152.125 imposes a gift tax of \$10 for any motor vehicle given as a gift. There are no restrictions on who qualifies as a gift recipient.
- DIGEST:** CSHB 2654 would amend Tax Code, sec. 152.001 to impose a motor-vehicle sales tax on most recipients of a gift of, or transfer without payment of, a motor vehicle. It would amend sec. 152.025(a) to allow certain recipients to pay only a motor vehicle gift tax. A person would pay a gift tax if they received a motor vehicle gift from a:
- spouse;
 - parent or stepparent;
 - grandparent or grandchild;
 - child or stepchild;
 - sibling;
 - guardian; or
 - decedent's estate.

A tax-exempt 503(c) organization that would use the vehicle solely for purposes of the organization also would pay the gift tax.

CSHB 2654 also would require a notarized statement in which the principal parties of a gift of a motor vehicle described the nature of the transaction and the relationship between the principal parties.

The bill would take effect September 1, 2009. The gift tax imposed by CSHB 2654 only would apply to a joint statement relating to a transfer of a motor vehicle as a result of a gift that was filed with a tax assessor-collected of a county on or after September 1, 2009. CSHB 2654 would not affect the tax liability accruing before September 1, 2009.

**SUPPORTERS
SAY:**

CSHB 2654 would reduce the number of fraudulent gift transactions reported and would raise an additional \$26 million in general revenue over the next biennium. Texas switched to a standard presumptive value to compute the motor-vehicle sales tax in 2006. Prior to that, used vehicles purchased through private-party transactions were taxed based on the buyer's reported purchase price. Buyers had an incentive to underreport the value of the vehicles and pay less tax as a result. Since Texas switched away from self reporting of value to the standard presumptive value approach, there has been a sharp increase in the number of vehicles claimed as gifts. The total number increased from 330,908 gift tax transactions in 2006 to 408,920 in 2007. Buyers have an incentive to report a sale as a gift because they no longer can supply their own tax information, and the gift tax is only \$10. Under current law, the only evidence required to confirm that the vehicle was received as a gift is the signature of the person making the gift.

CSHB 2654 would require that the person making the gift be a relative of the person claiming the gift or that the recipient be a tax-exempt charity or heir. CSHB 2654 also would require the parties to the gift file a notarized statement describing the nature of the transaction and the relationship between the principal parties. This requirement would place Texas in line with other states that allow special exemptions for gift transfers of vehicles. California, Illinois, Michigan, and New York require proof of relationship before they grant an exemption on the gift transfer of a vehicle. Florida requires a sworn statement that the vehicle is a gift.

The additional reporting requirements that CSHB 2654 would require would not be overly burdensome. The tax exemption on gift transfers is very generous, and effective regulation requires proper documentation so that only the people intended by the Legislature to claim the tax exemption do so.

According to the LBB, CSHB 2654 would provide the state with an additional \$26 million over the next biennium as the number of fraudulent claims of the gift exemptions decreased.

OPPONENTS
SAY:

While deterring fraudulent claims of valuable tax exemptions is laudable, CSHB 2654 would attempt to do so by increasing the number of steps, and the overall difficulty, that the average taxpayer would have to go through to claim a rightful exemption. The bill's approach to combating fraud would be to make the process so onerous and expensive that some people will not go through the trouble to claim the exemption. Current law requires individuals to fill out the appropriate form, sign it, and submit it to the appropriate governmental official. CSHB 2654 would require that parties to the gift transaction draft statements detailing their relationship and the specifics of the transaction. They would have to go through the process of having the document notarized and then submit it. These additional transaction costs of time, money, and effort are overly burdensome on honest and legitimate taxpayers.

NOTES:

The substitute differs from the bill as filed by adding definitions for "sale" and defining a taxable gift of a car as one where the recipient received the car from a family member, a decedent's estate, or if the recipient is a tax-exempt charitable organization. The substitute also would require a notarized statement in which the principal parties of a gift of a motor vehicle described the nature of the transaction and the relationship between the principal parties.

The companion bill, SB 1357 by Lucio, passed the Senate by 31-0 on April 9 on the Local and Uncontested Calendar and has been referred to the House Ways and Means Committee.