



May 8, 2017

The Honorable Cristina Garcia
California State Assembly
Capitol Office, Room 2013
P.O. Box 942849
Sacramento, CA 94249-0058

Re: Assembly Bill 1305: Sales and use taxes

Dear Assemblywoman Garcia:

I write on behalf of the American Financial Services Association (“AFSA”)¹ to register our opposition to Assembly Bill 1305, which would eliminate a provision of the Revenue and Tax Code allowing a lender or other financial institution to claim a deduction or credit for sales or use taxes paid on uncollectable and charged off accounts. We have serious concerns about this bill and respectfully urge you to reconsider your support, as this legislation would negatively affect California’s consumers who could face higher costs in financing the purchase of a vehicle.

When financing the purchase of a vehicle, the vehicle finance company allows the consumer to finance the sales taxes by paying the full amount of the sales tax for the consumer and collecting that amount over the life of the loan. When a debt becomes uncollectable, the financial institution’s only method for recovering the uncollected portion of the prepaid sales tax is by claiming a deduction or credit in such amount. By eliminating this provision of the Revenue and Tax Code, AB 1305 would leave financial institutions exposed to significant losses on sales and use taxes that go uncollected. Depending on the price of the vehicle and the length of time remaining on the loan term when it becomes uncollectable, the added exposure could total thousands of dollars for a single vehicle. Vehicle finance companies lose money whenever an account become uncollectable, even in instances when the vehicle is repossessed, due to the costly act of physical repossession and the replacement of loan contracts with depreciating assets in the form of vehicles. AB 1305 would compound these losses by leaving financial institutions with no method for recovering the uncollected sales or use taxes.

The interest rate charged, by necessity, takes into account many factors, including the consumer’s financing needs and the risk of default and resulting costs. Financial institutions rely on the bad debt statute to offset the risk of purchasing retail installment contracts from dealers and to mitigate losses associated with uncollectable accounts. If the state repeals the provision allowing lenders and other financial institutions to take a deduction or refund on sales or use taxes, the extra costs and risks associated with consumer default may necessarily be priced into

¹ Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance. AFSA members do not provide payday or vehicle title loans.

the sales contract, resulting in higher interest rates and increased costs for California consumers looking to purchase a vehicle. Faced with higher interest rates, California residents—for whom ownership of a reliable vehicle is essential—may have greater difficulty securing credit and affording the vehicles they rely on in their daily lives and otherwise may have been able to afford.

For these reasons, we respectfully urge you not to move forward with this legislation. Thank you in advance for your consideration of our comments. If you have any questions or would like to discuss this further, please do not hesitate to contact me at 202-469-3181 or mkownacki@afsamail.org.

Sincerely,

A handwritten signature in blue ink that reads "Matthew Kownacki". The signature is written in a cursive, flowing style.

Matthew Kownacki
Manager, State Research and Policy
American Financial Services Association
919 Eighteenth Street, NW, Suite 300
Washington, DC 20006-5517

cc: All members, Assembly Committee on Revenue and Taxation
M. David Ruff, Chief Consultant, Assembly Committee on Revenue and Taxation