



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #297

Sales and Use Tax Exemption for Services of Printing and Imprinting Advertising and Promotional Direct Mail (General Fund Taxes -- Sales and Excise Taxes)

[LFB 2013-15 Budget Summary: Page 185, #6]

CURRENT LAW

Printed Materials

The 5% state sales and use tax is generally imposed on the sale, use, or other consumption of tangible personal property in Wisconsin, unless a specific exemption applies. Sales of printed materials, such as books, non-subscription periodicals, brochures, and posters, are generally taxable.

However, current law provides specific exemptions for: (a) catalogs, and the envelopes in which the catalogs are mailed, that are designed to advertise and promote the sale of merchandise or to advertise the services of individual business firms; and (b) printed material that is designed to advertise and promote the sale of merchandise or services of individual businesses and that is purchased and stored for the purpose of transporting it outside the state by the purchaser for use solely outside the state.

Printing Services

In contrast to the treatment of tangible property, the sales tax is imposed selectively on certain services specifically identified in the statutes. Most services are not taxed. One of the services that is generally taxable in Wisconsin is the printing or imprinting of tangible personal property for a consideration for consumers who furnish (directly or indirectly) the materials used in the printing or imprinting. However, printing of the exempt catalogs and advertising materials identified above is not subject to tax.

Direct Mail

The purchase of direct mail is currently taxable as a purchase of tangible personal property unless it is a catalog or unless it is: (a) designed to advertise and promote the sale of merchandise or services; and (b) purchased and stored for the purpose of transporting it outside the state by the purchaser for use solely outside the state. The sales tax does not apply to charges for mailing services if they are separately stated to the customer.

Beginning July 1, 2013, an exemption will be provided for purchases of advertising and promotional direct mail, regardless of where the mail is destined. This provision will expand the current exemption for advertising and promotional direct mail to cover items destined for delivery in Wisconsin.

Purchases of non-promotional direct mail, such as bills or notifications, will remain taxable. Also, if a customer supplies paper or other materials to a printer of promotional or non-promotional direct mail, the charge for printing the documents will remain taxable under the general provision imposing the tax on printing services when materials are provided by the customer.

GOVERNOR

Create a sales and use tax exemption for services of printing or imprinting advertising and promotional direct mail when the purchaser provides the materials used in the printing or imprinting, effective July 1, 2013. According to the Department of Revenue (DOR), some customers in Wisconsin provide paper to printers of advertising and promotional direct mail; however, DOR does not know to what extent this activity exists and anticipates that there are a small number of printers engaged in this type of activity. The administration estimates that this provision would reduce tax revenues by a minimal amount.

DISCUSSION POINTS

1. The Governor's recommendation is intended to address an inequity in the taxation of direct mail that will occur beginning July 1, 2013. As noted, under current law, the purchase of advertising and promotional direct mail will become tax-exempt on that date. However, the tax will continue to be imposed if a business provides paper or other materials to a printer for the service of printing advertising and promotional direct mail. Under the AB 40 provision, both types of transaction would be exempt beginning on July 1.

2. In addition, the proposal would treat persons who purchase printing and imprinting services of advertising and promotional direct mail the same as purchasers of printing and imprinting services of printed advertising materials for out-of-state use and of catalogs, as described above. Purchasers of catalogs and printed advertising materials for use out-of-state are exempt from the tax regardless of whether the purchased item is considered tangible personal property or a service. By making both the purchase of direct mail and the printing of direct mail exempt from

tax, the proposal would treat similar types of printed advertising material consistently.

3. However, it could also be argued that the proposal continues a long-term trend of eroding the sales tax base with specific exemptions for certain industries or business activities. Sales and use tax theory generally recommends imposing the tax on a broad base at a low rate. Exemptions from the sales and use tax narrow the tax base, which puts a greater burden on the purchasers of goods and services which remain taxable and can impede economic efficiency, create inequities between types of businesses, and complicate administration and compliance of the tax. On the other hand, advertising and promotional direct mail can be considered a business input, which tax theory suggests should not be subject to the retail sales tax.

4. Even with the AB 40 provision, other inequities will exist regarding the treatment of direct mail, because non-promotional direct mail will continue to be taxable.

5. In 2012, the Legislature formed the Joint Steering Committee on Income Tax to conduct an information symposium to develop recommendations regarding Wisconsin's income tax code. A number of invited speakers who appeared before the Committee mentioned the complexity of Wisconsin's income tax law due to exemptions, deductions, and tax credits. Although the Steering Committee was reviewing the income tax, it could also be argued that sales tax exemptions lead to additional complexity and should be limited.

ALTERNATIVES

1. Approve the Governor's proposal.
2. Delete provision.

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