

HB 2809

Bill Analysis

January 27, 1998

Brief Description: Exempting printed sales messages and related services from sales and use taxation.

Bill Sponsors: Representatives Thompson, Morris, Mulliken, Carrell and Schoesler.

Staff: Linda Brooks, 786-7153

Background: The sales tax is imposed on retail sales of most items of tangible personal property and some services. Use tax is imposed on the use of an item in this state, when the acquisition of the item or service has not been subject to sales tax. Services subject to sales tax include the installing, repairing, cleaning, altering, *printing or imprinting*, or improving of tangible personal property. The combined state and local sales and use tax rate is between 7 and 8.6 percent, depending on location.

Mail order houses mail letters, advertising publications, flyers, and similar materials for their customers. As part of these services, the mail order houses label, fold, enclose, and seal the materials. These activities are considered to be sales at retail, since they constitute labor and services rendered in the altering, imprinting, or improving of tangible personal property. Similarly, mailing list services that involve the addressing of printed materials are sales at retail.

In regards to tax exemptions for printed materials, the U.S. Supreme Court has said in a number of cases that a tax law will trigger heightened scrutiny under the first Amendment if it discriminates on the basis of the content of taxpayer speech. For example, application of sales tax to general interest magazines has been unconstitutional when religious, professional, trade, and sports magazines were exempt from tax.

Summary of Bill: Sales and use tax exemptions are created for printed sales messages such as catalogs, advertising flyers, letters, and brochures. Printed sales messages do not include items such as political campaign literature, fund-raising solicitations, stationery, calendars, or cash register tapes, unless these items principally serve to advertise or promote goods and services.

To be eligible for the exemptions, the printed sales messages must be printed to the special order of the purchaser. As long as the printed sales messages were originally printed as a special order, supplemental or additional orders of the same materials also qualify for the exemption. Upon receipt of the printed sales messages, the purchaser must mail them by postal service or common carrier without charging anyone for the receipt of the messages.

Mail order house and address listing services that are related to the preparation and mailing of printed sales messages are also exempted from sales and use tax.

To claim these exemptions, the purchaser must provide the printer, mail order house, and mailing list service provider with an exemption certificate. The purchaser must also provide the Department of Revenue (DOR) with a duplicate certificate. If use tax would apply instead of sales tax, then the purchaser must provide the DOR with an annual summary of exempt purchases.

Appropriation: None.

Fiscal Note: Requested.

Effective Date: July 1, 1998.