

HOUSE BILL REPORT

HB 2005

As Reported by House Committee On:
Finance

Title: An act relating to tax deductions and exemptions for postage costs.

Brief Description: Providing tax deductions and exemptions for postage costs.

Sponsors: Representatives Gombosky, Schindler, Cairnes, Sump, Cox, Crouse, Wood, Clements and Edwards.

Brief History:

Committee Activity:

Finance: 3/6/03, 4/4/03 [DP].

Brief Summary of Bill

- Allows printers and mailing bureaus to deduct postage charges when calculating business and occupation, retail sales, and use taxes.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 7 members: Representatives Gombosky, Chair; Cairnes, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Ahern, Morris, Roach and Santos.

Minority Report: Do not pass. Signed by 2 members: Representatives McIntire, Vice Chair; and Conway.

Staff: Bob Longman (786-7139).

Background:

Like most businesses, printers and mailing bureaus are required to pay business and occupation (B&O) tax on their gross receipts. Retail sales tax is imposed on the retail sale of most tangible personal property and some services. Printing and mailing bureau services are among the services that are subject to retail sales tax. Retail sales tax is paid by the buyer and collected by the seller, based on the selling price of the item sold. Use tax is imposed on the use of an item when the acquisition of the item has not been subject

to retail sales tax. Use tax is imposed at the same rate as retail sales tax.

For B&O tax and retail sales tax, the amount of tax is based on statutory definitions that apply tax to the full amount paid by the customer, without any deduction for expenses paid by the seller such as the cost of materials used, labor costs, or delivery costs. However, delivery costs were not included for the purpose of calculating use tax before June 1, 2002. On that date, legislation took effect that required inclusion of delivery costs when calculating use tax.

Notwithstanding the statutory provisions requiring inclusion of delivery costs when calculating retail sales and B&O taxes, the Department of Revenue (Department) issued administrative rules more than 30 years ago that allowed printers and mailing bureaus to deduct the cost of postage if the postage is purchased for a customer and the customer is charged for the postage. The use tax legislation enacted last year caused the Department to review its rules on printers and mailing bureaus. The Department discovered that it lacked the statutory authority for the portions of the rules which allow printers and mailing bureaus to deduct postage when calculating B&O and retail sales taxes.

Taxpayers are entitled to rely on rules and other written advice of the Department until the written rules or advice is modified by the Department. The Department has begun the process of revising its rules for printers and mailing bureaus. When the rules revision is complete, printers and mailing bureaus will be required to include the cost of postage purchased for customers when calculating B&O and retail sales tax.

Summary of Bill:

B&O, retail sales, and use tax does not apply to charges made for postage, if all of the following requirements are met:

1. The postage is purchased from the United States Postal Service;
2. The postage was purchased on behalf of the purchaser of a buyer who directed the seller to deliver printed materials to recipients at no charge to the recipients; and
3. The charges are separately stated and represent the actual cost of the postage.

These provisions apply retroactively as well as prospectively.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: The reinterpretation of the tax exemption for postage by the Department of Revenue is unfair. It results in undue taxes on small business. Unless this bill is enacted, customers will simply mail less. Customers will go out of state to other large mailing companies or use other forms of advertising that don't involve postage. Small businesses that provide mailing services will be hurt unless this bill is enacted. Taxing postage for mailings is unfair since competitors such as newspapers are exempt from sales and use tax. If the bill is intended to refund taxes that have already been paid, it should be amended to make this clear.

Testimony Against: None.

Testified: (In support) Representative Gombosky, prime sponsor; Joe Jovanovich, Walt's Mailing Service; and Bill Stauffacher, Pacific Printing and Imaging.

(Concerns) Julie Sexton, Department of Revenue.