
Finance Committee

HB 1785

Brief Description: Modifying the taxation of delivery charges for direct mail.

Sponsors: Representatives P. Sullivan, Hunter, Schindler, Linville, Ahern, Kessler, Rodne, Miloscia, Wood, Simpson, Serben, Orcutt, Santos, Grant, McCune, Conway and Kilmer.

Brief Summary of Bill

- Removes B&O, retail sales, and use tax from separately stated delivery charges for direct mail.

Hearing Date: 2/18/05.

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, retail sales, and use taxes, 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. Notwithstanding the statutory provisions requiring inclusion of delivery costs, the Department of Revenue (DOR) issued administrative rules more than 30 years ago that allowed printers and mailing bureaus to deduct the cost of postage when calculating B&O and retail sales taxes, if the postage is purchased for a customer and the customer is charged for the postage. Legislation enacted in 2002 caused the DOR to review its rules on printers and mailing bureaus. The DOR 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 DOR until the written rules or advice are modified by the DOR. In January 2005, the DOR issued new rules for printers and mailing bureaus, effective July 1, 2005. On and after that date, printers and mailing bureaus may not deduct postage when calculating taxes.

Summary of Bill:

B&O, retail sales, and use tax does not apply to delivery charges made for direct mail if the charges are separately stated on the billing document given to the purchaser. "Direct mail" means printed material delivered to a mass audience or a mailing list provided by the purchaser without charge to the persons who receive the mail.

Appropriation: None.

Fiscal Note: Requested on February 4, 2005.

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