

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1079 CS

Exemption from the Tax on Sales, Use, and Other Transactions

SPONSOR(S): Altman

TIED BILLS:

IDEN./SIM. BILLS: SB 1832

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Economic Development, Trade & Banking Committee</u>	<u>10 Y, 0 N, w/CS</u>	<u>Carlson</u>	<u>Carlson</u>
2) <u>Finance & Tax Committee</u>	<u>6 Y, 1 N</u>	<u>Rice</u>	<u>Diez-Arguelles</u>
3) <u>Commerce Council</u>	<u></u>	<u>Carlson</u>	<u>Randle</u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill will create a new exemption from sales and use tax under chapter 212, F.S., for advertising materials such as individual coupons or other individual cards, sheets, or pages of printed advertising, that are distributed free of charge by mail in an envelope for ten or more persons on a monthly, bimonthly or other regular basis.

The Revenue Estimating Conference has estimated the impact of the bill on state revenues to be (\$0.7) million in FY 2006-07 and (\$0.7) million in FY 2007-08. For local revenues the impact is estimated to be (\$0.2) million in FY 2006-2007 and (\$0.2) million in FY 2007-2008.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Lower Taxes – The bill will exempt from sales and use tax advertising materials distributed free of charge in an envelope under certain circumstances.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Section 212.08(7)(w), F.S., provides an exemption from the sales and use tax for newspaper, magazine, and newsletter subscriptions in which the product is delivered to the customer by mail and for free, circulated publications that are published on a regular basis, the content of which is primarily advertising, and that are distributed through the mail, home delivery, or newsstands. The exemption for newspaper, magazine, and newsletter subscriptions applies only to subscriptions entered into after March 1, 1997.

The Second District Court of Appeal has ruled that the exemption from sales and use tax for advertising publications provided in s. 212.08(7)(w), F.S., does not apply to advertising materials provided free of charge in an envelope because such advertising materials are not in a “publication” under s. 212.08(7)(w).¹

Effect of Proposed Changes:

The bill will create a new exemption from sales and use tax under chapter 212, F.S., for advertising materials such as individual coupons or other individual cards, sheets, or pages of printed advertising, that are distributed free of charge by mail in an envelope for ten or more persons on a monthly, bimonthly, or other regular basis.

C. SECTION DIRECTORY:

Section 1. Creates s. 212.08(7)(ccc), relating to sales and use tax, providing a tax exemption.
Section 2. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: The Revenue Estimating Conference estimated the following impact of the bill:

	FY 2006-07	FY 2007-08
General Revenue:	(\$0.7)m	(\$0.7)m
State Trust:	<u>(Insignificant)</u>	<u>(Insignificant)</u>
Total:	(\$0.7)m	(\$0.7)m

2. Expenditures:

None

¹ See *Dep't of Revenue v. Val-Pak Direct Marketing Systems, Inc.*, 863 So.2d 1 (Fla. 2d DCA 2003).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: The Revenue Estimating Conference Estimated the following impact of the bill:

	FY 2006-07	FY 2007-08
Local Government Half Cent	(\$0.1)m	(\$0.1)m
Local Option	<u>(\$0.1)m</u>	<u>(\$0.1)m</u>
Total	(\$0.2)m	(\$0.2)m

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: The bill will provide an exemption to any entity that provides advertising materials through the mail in an envelope under certain circumstances.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill reduces the authority that municipalities or counties have to raise revenues in the aggregate through local option sales taxes. However, the reduction in authority is insignificant. Therefore, this bill is not a mandate.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 30, 2006, the Economic Development, Trade and Banking Committee adopted a technical amendment that replaces the word "to" with the word "for" on line 40.