

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1079 CS

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

**SPONSOR(S):** Altman

**IDEN./SIM. BILLS:** SB 1832

**TIED BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Economic Development, Trade & Banking Committee	10 Y, 0 N, w/CS	Carlson	Carlson
2) Finance & Tax Committee			
3) Commerce Council			
4)			
5)			

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**SUMMARY ANALYSIS**

The bill will create a new exemption from sales and use tax under chapter 212 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 10 or more persons on a monthly, bimonthly or other regular basis.

The bill has an estimated total impact on state and local government revenue of (\$.9m) in FY 2006-07 and (\$.9m) in FY 2007-08.

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).<sup>1</sup>

##### **Effect of Proposed Changes:**

The bill will create a new exemption from sales and use tax under chapter 212 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 10 or more persons on a monthly, bimonthly or other regular basis.

#### C. SECTION DIRECTORY:

Section 1. Creates new s. 212.08(7)(ccc), which exempts from tax advertising materials distributed free of charge in an envelope under certain circumstances.

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
(\$.7m)	(\$.7m)

2. Expenditures: None.

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<sup>1</sup> 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
(\$.2m)	(\$.2m)

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 does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not reduce the percentage of state tax shared with municipalities or counties.

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.