

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Ways and Means Committee

BILL: CS/SB 1832

SPONSOR: Government Efficiency Appropriations Committee, Senators Haridopolos and Crist

SUBJECT: Sales Tax Exemption

DATE: April 24, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barrett</u>	<u>Cooper</u>	<u>CM</u>	Favorable
2.	<u>Keating</u>	<u>Johansen</u>	<u>GE</u>	Fav/CS
3.	<u>McVaney</u>	<u>Coburn</u>	<u>WM</u>	Favorable
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill provides a sales tax exemption for advertising materials that are distributed free of charge by mail in an envelope for at least ten persons on a regular basis.

The Revenue Estimating Conference has estimated that this sales tax exemption would result in a \$0.7 million loss to the General Revenue Fund, an insignificant loss to state trust funds and a \$0.2 million to local governments in fiscal year 2006-07 and on a recurring basis.

This bill amends section 212.08, Florida Statutes.

II. Present Situation:

Chapter 212, F.S., contains the state's statutory provisions authorizing the levying and collection of taxes on sales, use, and other transactions. This chapter also contains provisions for sales and use tax exemptions and credits applicable to certain items and under certain circumstances. The statutes currently provide more than 200 non-service exemptions. Exemptions generally take the form of identifying specifically exempt items, exempting items when used for particular purposes, and exempting purchases or sales by certain types of organizations, such as the government, churches, and charitable organizations. Section 212.08(7), F.S., provides 54 miscellaneous sales tax exemptions.

Section 212.08(7)(w), F.S., provides a sales tax exemption for certain newspaper, magazine, and newsletter subscriptions that are delivered by mail. This section also provides a sales tax exemption for shoppers and community newspapers that are 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. Coupons or other printed advertising

distributed in an envelope on a regular basis are not considered publications and are not covered by this exemption.

In *Department of Revenue v. Val-Pak Direct Marketing Systems, Inc.*, 863 So.2d 1 (Fla. 2d DCA 2003), the Second District Court of Appeal ruled that the exemption from sales and use tax for advertising publications 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), F.S.

Section 212.02(12), F.S., defines “person” to include any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit and also includes any political subdivision, municipality, state agency, bureau, or department and includes the plural as well as the singular number.

III. Effect of Proposed Changes:

Section 1 amends s. 212.08(7), F.S., creating paragraph (ccc) to add a sales tax exemption for advertising materials that are distributed free of charge by mail in an envelope. Specifically, this section provides that the following materials are exempt from sales tax: materials consisting exclusively of advertisements, such as individual coupons or other individual cards, sheets, or pages of printed advertising, which are distributed free of charge by mail in an envelope for at least ten persons on a monthly, bimonthly, or other regular basis.

Section 2 provides an effective date of July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of s. 18, Art. VII of the State Constitution provides that except upon approval of each house of the Legislature by 2/3 vote of the membership, the Legislature may not enact, amend or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority exists as of February 1, 1989. Subsection (d) of that section exempts from the requirements of subsection (b) those laws having an insignificant fiscal impact.

The exemption granted in this bill is estimated to reduce the revenue-raising authority of cities and counties by an insignificant amount. Thus, it appears this bill is exempt from the requirements of section 18, Art. VII of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

The Revenue Estimating Conference has estimated that this sales tax exemption would result in a \$0.7 million loss to the General Revenue Fund, an insignificant loss to state trust funds and a \$0.2 million to local governments in fiscal year 2006-07 and on a recurring basis.

B. Private Sector Impact:

Entities that distribute advertisements regularly through the mail in envelopes will benefit, as they will no longer be subject to sales tax on the costs associated with production of the material.

C. Government Sector Impact:

The Department of Revenue may incur administrative costs related to the administration of this sales tax exemption; such costs are likely to be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

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