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INFORMATION-GENERATING COMPUTERS: SALES/USE TAXES

House Bill 5967 and 5968 as introduced First Analysis (7-1-98)

Sponsor: Rep. Kirk A. Profit
Committee: Tax Policy

THE APPARENT PROBLEM:

A representative of UMI, an information aggregator and publisher in Ann Arbor (a company once known as University Microfilms), has testified that the exemption from the sales and use taxes his company enjoyed when they purchased computers used in generating information for customers in the form of CD-ROMs and tapes apparently no longer applies when the information is instead transmitted to customers over the Internet. (The company's customers are said to be mostly nonprofit libraries.) The industrial exemption applied, according to testimony, when the company produced tangible personal property but now that the product is "intangible" and transmitted over the Internet, the same computers producing the same kinds of information are subject to the sales and use taxes. The company has requested that this tax exemption be restored (at least until issues surrounding the taxation of Internet commerce is more settled.)

THE CONTENT OF THE BILLS:

The bills would provide an exemption from the sales tax and from the use tax for equipment primarily used in connection with the computer-assisted production, storage, and transmission of data primarily sold to certain nonprofit organizations if the equipment would have been exempt had the data transfer sale been considered a sale of tangible personal property. House Bill 5967 would amend the General Sales Tax Act (MCL 205.54a). House Bill 5968 would amend the Use Tax Act (MCL 205.94).

The bills would apply to nonprofits that are health, welfare, educational, cultural arts, charitable, or benevolent organizations with exemption ruling letters from the Department of Treasury and organizations exempt from federal income tax under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

The sections in the acts being amended currently provide an exemption for a computer used in operating industrial processing equipment; equipment used in computer-assisted manufacturing; equipment used in a computer-assisted design or engineering system integral to an industrial process; and a subunit or electronic assembly that is a component in a computer-integrated industrial processing system.

FISCAL IMPLICATIONS:

There is no specific information at present. The representative of the company proposing the legislation has said that the company has not paid taxes in the past on its computers. The company can spend as much as \$10 million per year on computers. (Committee testimony on 6-30-98)

ARGUMENTS:

For:

The bills would restore sales and use tax exemptions to an information packager in Ann Arbor for the computers it purchases to aggregate and publish information to its customers, mostly non-profit libraries. The tax exemption was deemed lost when the company began distributing information over the Internet rather than by means of CD-ROMs and tapes. Over time, the many issues involved in determining how to tax the transmitting, buying, and selling of information and goods over the Internet will get resolved by state governments. However, a company should not be faced with a tax increase when it decides to carry out its traditional information-transmitting business via the Internet rather than other means.

Against:

State tax officials have said that they want to continue working on this issue and on the problems associated

with the tax exemptions for industrial processing, but do not support this specific exemption at this time.

POSITIONS:

A representative from UMI in Ann Arbor testified in support of the bills. (6-30-98)

The Department of Treasury is opposed to the bills at this time. (6-30-98)

Analyst: C. Couch

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