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EXEMPT TV AND RADIO EQUIPMENT

House Bills 6016 and 6017 (Substitutes H-2) First Analysis (9-22-98)

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

THE APPARENT PROBLEM:

The Michigan Association of Broadcasters is seeking an expansion of the exemptions television and radio stations receive under the General Sales Tax Act and Use Tax Act for the purchase of certain property used to create programming or program material. These exemptions, MAB says, are analogous to the exemptions provided to manufacturers and farmers for equipment used in manufacturing and agricultural production. However, broadcasters say, their exemption is not as extensive as those provided to farmers and manufacturers. Notably, under current law, cameras and studio equipment are exempt, but towers and transmitters are not. A representative of broadcasters has testified: "This approach represents a fundamental misconception of what broadcasters actually produce as a product. The product . . . is not merely programming or program material. Indeed, particularly in the case of television, much of a broadcaster's program material is provided by or acquired from third parties. The product actually . . . is broadcast signal." When this is understood, says MAB, it is obvious that the current exemption is too narrow and that broadcasters are being taxed unfairly in comparison with other businesses.

This issue has become pressing because of a new federal mandate requiring television stations to transmit digital signals that ultimately will replace the current analog signals. The MAB spokesperson testified that, "as stations begin to transmit digital signals, they must simultaneously continue to transmit analog signals until the year 2006. In 2006, all analog broadcasting will cease and every television station must transmit digitally. This has the effect of requiring each station to run two stations -- one for digital broadcasts, the other for analog broadcasts." Broadcasters estimate that converting to digital will cost stations that broadcast the news about \$9 million per station and stations that do not about \$4 million per station. The MAB seeks broader sales and use tax exemptions that will accurately reflect the product broadcasters provide and that will exempt the purchase

not only of equipment used to create programming but also equipment used to produce and broadcast a broadcast signal.

THE CONTENT OF THE BILLS:

The bills would expand the sales and use tax exemptions for radio and television stations. They would provide sales and use tax exemptions for property purchased by radio and television stations licensed by the Federal Communications Commission (FCC) if the property is used for the origination or integration of the various sources of program material for broadcast or is used for the production and broadcast of a broadcast signal. Such property would include, but not be limited to, property required by the FCC, property used in the transmission to or reception from an artificial satellite, and electricity, but would not include a vehicle licensed and titled for use on public highways. House Bill 6016 would amend the Use Tax Act (MCL 205.94) and House Bill 6017 would amend the General Sales Tax Act (MCL 205.54a) effective after January 1, 1998.

Currently, the acts contain exemptions for commercial radio and television stations that apply to property "used in the origination or integration of the various sources of program material," but the acts specifically exclude from the exemption property used in transmitting to or receiving from an artificial satellite, as well as vehicles licensed and titled for use on a public highway.

BACKGROUND INFORMATION:

The Michigan Association of Broadcasters has said the following in a background paper provided to the House Tax Policy Committee:

"Twenty-six stations in the top ten television markets, which includes Detroit, have voluntarily committed to broadcasting digital signals by November of this year.

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All network stations in the top ten markets must transmit digital signals by May 1, 1999; the remaining network stations in the top 30 markets must transmit digital signals by November 1, 1999. Remaining commercial stations must transmit digital signals by May 1, 2002; and all noncommercial stations must do so by May 1, 2003. In the year 2006, all stations are required to stop transmitting analog signals."

The Federal Communications Commission has distributed the following information on its web site (at <http://www.fcc.gov>).

"Digital Television, or DTV, is a new type of service coming to the airways. Each existing TV station in the United States has been given a new TV channel on which to broadcast a digital format. Currently, TV stations use an analog or NTSC format and they will continue to broadcast on their current channels with this format for at least several, and possibly as many as eight years . . . High Definition TV (HDTV) broadcasts over DTV channels will provide the consumer with a much clearer and brilliant picture . . . Also, the single digital channel provided to each station can be used to broadcast four or five standard definition analog channels like are now being broadcast, as well as for downloading of data for computers or other interactive and new services. It is at the broadcaster's discretion as to how it uses its digital channel . . . To receive the full benefit of picture superiority offered by HDTV, the customer must have a DTV receiver. These are just beginning to come on the market at a very high price (\$4,500-\$15,000). The evolution of digital TV for the most part will be marketplace driven."

FISCAL IMPLICATIONS:

The House Fiscal Agency has estimated the cost of the bills at between \$1 million and \$3 million per year for the years 1998-2006. (HFA fiscal note dated 9-15-98)

ARGUMENTS:

For:

The bills would remedy the unequal treatment currently afforded television and radio broadcasters under the sales and use tax acts. The exemptions provided broadcasters are narrower than those provided other industries through the industrial processing exemption for manufacturers and the agricultural processing exemption for farmers. Only some of the equipment broadcasters use to broadcast a signal is exempt; much of the equipment, such as transmitters and towers, is not. This inequity is all the more galling in the face of new Federal

Communication Commission mandates that will compel television broadcasters to make large investments in new technology (and essentially run two stations side-by-side). Much of the new equipment will be subject to the sales and use taxes. The Michigan Association of Broadcasters says the tax savings per station from this proposed tax legislation is about \$100,000, but says the increased mandated expenditures could not have been foreseen by state revenue forecasters and so the exemptions will not significantly affect state revenue estimates. Some 26 states have passed, or are in the process of passing, similar legislation, say broadcasters.

Against:

The existence of new FCC regulations that require significant spending by television stations does not provide sufficient justification for changing longstanding state tax policy in this area. A representative of the Department of Treasury has said the department is taking a strong look at the industrial processing exemption as a whole, and presumably the exemption for broadcasters will be part of that examination.

POSITIONS:

The Michigan Association of Broadcasters supports the bill. (9-16-98)

The Department of Treasury opposes the bill. (9-16-98)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.