



Romney Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

INFORMATION-GENERATING COMPUTERS: SALES/USE TAXES

House Bill 5967 and 5968 as enrolled Public Acts 490 and 491 of 1998 Second Analysis (1-12-99)

Sponsor: Rep. Kirk A. Profit
House Committee: Tax Policy
Senate Committee: Finance

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 are more settled.)

THE CONTENT OF THE BILLS:

The bills would provide an exemption from the sales tax and from the use tax for computer equipment used in connection with the computer-assisted production, storage, and transmission of data if the equipment would have been exempt had the data transfer been made using tapes, disks, CD-ROMS, or similar media by a company whose business includes publishing doctoral dissertations and information archiving, and that sells the majority of the company's products to nonprofit organizations themselves exempt. (That refers 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.) 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 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.

The bills also would revise the provisions regarding how sales and use taxes apply to tangible personal property used to produce certain newspapers, periodicals, and motion picture films. The bills would specify that tangible personal property used or consumed in producing a copyrighted motion picture film, a newspaper published more than 14 times per year, or a periodical published more than 14 times per year, and not becoming a component part of that film, newspaper, or periodical, is subject to the tax.

After December 31, 1993, tangible personal property used or consumed in producing a newspaper published 14 times or less per year or a periodical published 14 times or less per year and that portion or percentage of tangible personal property used or consumed in producing an advertising supplement that becomes a component part of a newspaper or periodical is exempt from the tax. A claim for a refund for taxes paid before January 1, 1999, must be made before June 30, 1999.

The language prior to this read: "Tangible personal property used or consumed, and not becoming a component part of a copyrighted motion picture film, newspaper, or periodical, except that portion or percentage of tangible personal property used or consumed in producing an advertising supplement that becomes a component part of a newspaper or periodical, is subject to tax."

House Bills 5967 and 5968 (1-12-99)

This language is part of a provision that provides an exemption for sales of a copyrighted motion picture film or a newspaper or periodical admitted under federal postal laws and regulations as second-class mail matter or as a controlled circulation publication or qualified to accept legal notices for publication in this state, as defined by law, or any other newspaper or periodical of general circulation, established not less than two years, and published not less than one a week.

FISCAL IMPLICATIONS:

There is no fiscal information.

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. The bills as enacted would also revise the provisions that determine how equipment used to produce periodicals and newspapers is treated for tax purposes.

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.