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USE TAX: EXEMPT INVESTMENT COINS AND BULLION

House Bill 4863 (Substitute H-1) First Analysis (10-27-99)

Sponsor: Rep. Nancy Cassis
Committee: Tax Policy

THE APPARENT PROBLEM:

Public Act 105 of 1999 (Senate Bill 396) exempted the sale of investment coins and bullion from the sales tax. The rationale for this was that the neighboring states of Illinois and Ohio had such exemptions (as do some 20 states in total) and Michigan dealers were losing business to these neighboring states. The state was also losing the related business (and revenue) associated with coin shows and conventions. Proponents argued that the state would more than make up for any lost tax revenue because trade in coins and bullion would increase substantially once the six percent sales tax burden was lifted. This legislation had been introduced in two previous sessions and originally contained a sales tax exemption and a use tax exemption. In fact, both a sales tax exemption and a use tax exemption passed the House in the 1997-98 session (although they did not become law). However, a use tax exemption was not enacted along with Senate Bill 396, reportedly because it was felt to be unnecessary. Since the enactment of Public Act 105, perceptions have changed. A Department of Treasury representative has said that it is the department's position that if a person purchases investment coins and bullion and does not pay sales tax, he or she must instead pay the use tax on the purchases. (Actually, the use tax would be on the storage, use, or consumption of the coins and bullion.) This is the department's interpretation of the use tax statute. Following this interpretation, for the sales tax exemption on coins and bullion to be meaningful there needs to be a corresponding use tax exemption.

THE CONTENT OF THE BILL:

The bill would amend the Use Tax Act to exempt the storage, use, and consumption of investment coins and bullion beginning July 7, 1999.

The term "bullion" would refer to gold, silver, or platinum in a bulk state, where its value depends on its content rather than its form, with a purity of not less than 900 parts per 1,000. The term "investment coins"

would refer to numismatic coins or other forms of money and legal tender manufactured of gold, silver, platinum, palladium, or other metal and issued by the United States government or a foreign government with a fair market value greater than the face value of the coins.

MCL 205.94u

BACKGROUND INFORMATION:

The Use Tax Act says that the tax does not apply to "Property sold in this state on which transaction a tax is paid under the General Sales Tax Act, if the tax was due and paid on the retail sale to a consumer." (MCL 205.94)

FISCAL IMPLICATIONS:

The House Fiscal Agency has estimated the revenue loss at \$50,000 to \$150,000 annually. The loss to the School Aid Fund would be \$16,700 to \$50,000 (one-third), with the rest of the revenue loss coming out of the General Fund/General Purpose budget. (HFA note dated 10-25-99)

ARGUMENTS:

For:

This is a companion bill to Senate Bill 396 (Public Act 105 of 1999), which exempted sales of bullion and investment coins from the sales tax. The Department of Treasury's interpretation of the Use Tax Act requires a person who does not pay sales tax on goods to instead pay the use tax on the storage, use, or consumption of the goods. This would render the sales tax exemption nugatory. If the sales tax exemption is to become operative, a corresponding use tax exemption must be enacted. The bill would make the use tax exemption effective as of the date the sales tax exemption took effect.

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Response:

Not everyone would agree with the department's interpretation of the applicability of the use tax to investment coins and bullion (or any goods exempt from the sales tax). This is an issue that is in need of comprehensive review.

POSITIONS:

The Department of Treasury supports the bill. (10-26-99)

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.