



**House
Legislative
Analysis
Section**

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**SALES TAX EXEMPTION FOR
INTERNATIONAL SPORTS EVENT**

**House Bill 6002 (Substitute H-1)
First Analysis (5-16-02)**

**Sponsor: Rep. Clark Bisbee
Committee: Tax Policy**

THE APPARENT PROBLEM:

The Ryder Cup pits the best golfers from the United States against the best golfers from Europe in a biennial match play tournament. The location of the tournament alternates between the two continents. This September the cup matches will be played at the DeVere Belfry in Sutton Coldfield, England. In 2004, the matches will be played at the Oakland Hills Country Club in Bloomfield Hills, Michigan. According to information provided to the House Committee on Tax Policy, the PGA of America is attracting corporate sponsorships for the event by selling packages that will combine taxable and nontaxable products and services. An example cited to the committee involved a package that combines such taxable items as golf balls, T-shirts, and mugs, with nontaxable items such as tickets to the event, advertising on the grounds of the competition, and tables in a hospitality tent. The General Sales Tax Act is understood to require that such packages be fully taxed. (See Background Information.) Legislation has been drafted that will allow the Department of Treasury to work out in advance with the PGA the taxable and nontaxable elements in sponsorship packages so that only the taxable elements are actually made subject to the state's sales tax.

THE CONTENT OF THE BILL:

The bill would amend the General Sales Tax Act to allow the organizing entity of an international athletic event that sold corporate sponsor contracts for the event that included both taxable tangible personal property and nontaxable services to apply the sales tax only to the amount charged for the taxable tangible personal property. This would apply only if the Department of Treasury had given written approval to the organizing entity's allocation of tax among taxable tangible personal property and nontaxable services. (An "international athletic event" would mean a sporting competition in which individuals officially representing at least two countries or nations compete.)

The bill would require that the organizing entity provide the department written notice of its intent to enter into corporate sponsor contracts and an itemized schedule of the taxable tangible personal property and nontaxable services to be provided under each contract at least 180 days in advance of entering into the first contract. The bill also would specify that the provisions would only apply if the entity was tax exempt or wholly owned by an entity exempt under Section 501(c)(6) of the federal Internal Revenue Code. (That subsection applies to business leagues, chambers of commerce, real estate boards, boards of trades, and professional football leagues not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.)

MCL 205.55b

BACKGROUND INFORMATION:

Section 2 (1) of the General Sales Tax Act imposes the six percent sales tax on the gross proceeds of persons engaged in the business of making sales at retail. Section 2 (2) says that "any person engaged in the business of making sales at retail who is at the same time engaged in some other kind of business, occupation, or profession not taxable under this act shall keep books to show separately the transactions used in determining the tax levied by this act. If the person fails to keep the separate books, there shall be levied upon him or her the tax provided for in subsection (1) equal to 6 percent of the entire gross proceeds of both or all of his or her businesses". This provision is why a single bundled package containing taxable and (otherwise) nontaxable items is, as a whole, taxable.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill is still being examined for any potential fiscal impacts. (HFA committee analysis dated 5-14-02) A

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representative of the Department of Treasury testified before the House Committee on Tax Policy that the bill would not affect state revenues. (Testimony on 5-15-02)

ARGUMENTS:

For:

The bill is intended to allow a nonprofit organizer of an international athletic event to work out in advance with the Department of Treasury the taxable and nontaxable elements of corporate sponsorship contracts so that the sales tax would only be applied to those elements that would be taxable if each of the elements were sold separately. Under the bill, the allocation of taxable and nontaxable elements would have to be approved by the department in advance of the first corporate contract being entered into. The advantage to this is that it will minimize enforcement problems that otherwise could arise. The impetus for the bill is the 2004 Ryder Cup golf matches to be played in suburban Detroit. But, with the removal of the original sunset date, the bill could apply to other such events, where the participants are representing their countries. The promotion of these kinds of events in Michigan could produce long-term benefits to Michigan tourism (since they bring people into the state from all over the world, some perhaps visiting for the first time).

Response:

Some people who believe the legislation is a good idea say it should be expanded to cover other similar events, such as the Super Bowl or national conventions. The bill as written is limited to athletic events where the players represent their countries. It is not clear why that should be the relevant feature in determining who gets this special tax treatment.

Against:

A number of concerns have been raised about the bill. Some people fear that it represents another draining of sales tax revenue from schools. When the new school finance system was enacted with the passage of Proposal A, schools were supposed to get a stable stream of revenue from dedicated tax sources. The regular legislating of exemptions erodes these taxes. Others have criticized the bill as providing an incentive to corporations to sponsor one kind of event and possibly withdraw financial support from others (that do not enjoy similar tax treatment). Critics complain that since the event at which this special tax treatment is targeted has already been scheduled, the legislation can't be described as an incentive.

Response:

The bill would allow for the "unbundling" of elements in corporate sponsorship contracts so that only the items that would be taxable standing alone will be taxed. Nontaxable items will not be taxed. This hardly qualifies as special tax treatment; indeed, to some observers, it seems the only fair approach to the issue.

POSITIONS:

A representative of the Department of Treasury testified in support of the bill. (5-15-02)

A representative of the Michigan Education Association testified in opposition to the bill. (5-15-02)

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.