

2001 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-SB55)

Received: 06/26/2001

Received By: jkreye

Wanted: Soon

Identical to LRB:

For: Assembly Republican Caucus

By/Representing: Smith

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax - sales

Extra Copies:

Submit via email: NO

Requester's email:

Pre Topic:

ARC:.....Smith - AM114,

Topic:

205: Retroactive use tax exemption on advertising materials printed outside the state

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	jkreye 06/26/2001	jdyer 06/26/2001	rschluet 06/26/2001	_____	lrb_docadmin 06/26/2001		
	jkreye 06/27/2001	jdyer 06/27/2001		_____			
/2			rschluet 06/28/2001	_____	lrb_docadmin 06/28/2001		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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[Handwritten signatures and initials]
6-28-1

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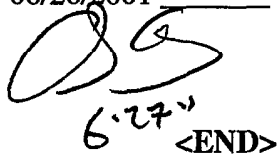
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6-27-01 <END>

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1?	jkreye	1 6/26 jL		 6-26-01			

FE Sent For:

<END>

Budget Amendments 2001 - 2003

Prepared by the Assembly Republican Caucus

1767

JK

Statement of Intent Exemption, retroactively, from the use tax advertising materials printed outside Wisconsin that are shipped by the printer directly to the purchaser's Wisconsin customers.

Legislator	Kaufert	Amendment	114
Legislator 2		Pass or Fail	Pass
Legislator 3		Spending Cut	
Legislator 4		Withdrawn	
Staff contact	Ed	Package	

Agency Revenue

Summary This motion would exempt from the use tax retroactively from January 1, 1990, advertising materials printed outside Wisconsin that are shipped by the printer directly to the purchaser's Wisconsin customers.

Under current law, advertising materials such as catalogs, printed outside Wisconsin and shipped directly to the purchaser's customers - without the purchaser having taken possession of the printed material - are subject to Wisconsin's use tax if the out-of-state printer has nexus (business connection) in Wisconsin. The tax does not apply if the printer does not have nexus with the state.

DOR has tried to implement its interpretation of the law by assessing printers. Although they have not yet collected money based on those assessments, litigation is still pending. The only way to remove the DOR threat from the printers is to make the law retroactive.

This amendment both removes that threat, and clarifies the law for the future.

DOR's interpretation of the law may be contrary to the legislative intent, and it's important to nullify actions DOR has taken based on an erroneous interpretation.

Fiscal Impact None. No money has yet been collected, so no money will be lost through the retroactivity.

Drafting Inst

ARC Analyst Smith

Request # 205



JLD RMR

ARC:.....Smith – AM114, 205: Retroactive use tax exemption on advertising materials printed outside the state

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS ASSEMBLY AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

m 6-26-01

substitute amendment

1

At the locations indicated, amend the ~~bill~~ as follows:

2

1. Page 847, line 15: after that line insert:

3

"SECTION 2246^xp. 77.56 (4) of the statutes is created to read:

4

77.56 (4) The storage, use or other consumption of advertising materials that are printed outside this state, if the printer ships the materials directly to customers of the purchaser of the advertising materials and the customers are in this state."

7

2. Page 1403, line 19: after that line insert:

8

"(5^b) ADVERTISING MATERIALS. The treatment of section 77.56 (4) of the statutes first applies to advertising materials shipped on January 1, 1990."

10

3. Page 1423, line 24: after that line insert:

Kreye, Joseph

From: Hanaman, Cathlene
Sent: Wednesday, June 27, 2001 5:26 PM
To: Kreye, Joseph
Subject: FW: LRB Draft: 01b1767/1 205: Retroactive use tax exemption on a dvertising materials printed outside the state

Importance: High

-----Original Message-----

From: Smith, Heather
Sent: Wednesday, June 27, 2001 5:23 PM
To: Hanaman, Cathlene
Subject: FW: LRB Draft: 01b1767/1 205: Retroactive use tax exemption on a dvertising materials printed outside the state
Importance: High

-----Original Message-----

From: Eberle, Ed
Sent: Wednesday, June 27, 2001 5:19 PM
To: Smith, Heather
Subject: FW: LRB Draft: 01b1767/1 205: Retroactive use tax exemption on a dvertising materials printed outside the state
Importance: High

-----Original Message-----

From: Carey, Raymond R. (Madison) [<mailto:RCarey@foleylaw.com>] <<mailto:RCarey@foleylaw.com>>
Sent: Wednesday, June 27, 2001 5:14 PM
To: 'Eberle, Ed'
Subject: RE: LRB Draft: 01b1767/1 205: Retroactive use tax exemption on a dvertising materials printed outside the state

Ed, there are several problems with this draft. First, we need to have the exemption in the general exemptions section (s. 77.54), not the use tax exemption section. This is because the DOR has tried to assess these printed materials for both use and sales taxes, not just use taxes. Second, although advertising material is the majority of the what is being printed out of state, many orders include phone books and other products that aren't necessarily "advertising" material. Finally, the use of the word "customer" is a problem because for many of the publishers they are sending material to people with whom they haven't established a customer relationship (people who are potential customers and are being "enticed" by the catalogs). The last phrase "and customers are in this state" is unnecessary (if they aren't in the state and the material is printed out of state, then DOR can't tax it anyway) ... but if there is some logical reason to include it, we don't object. I would suggest the following changes:

77.54(46) is created to read:

77.54(46) The sale, storage, use or other consumption of printed materials that are printed outside of the this state, if the printer ships the materials directly to the persons designated by the purchaser of the printed materials.

[the retroactivity clauses would then need to be changed to reflect this change]

Ed, some of this is optional, but the changing of the section to 77.51 and inserting the word "sale" in the first line is not. Without these changes, it will not have the intended effect.

Thanks.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb1767/1

JK:jld:rs

RM not R

ARC:.....Smith - AM114, 205: Retroactive use tax exemption on advertising materials printed outside the state

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

CAUCUS ASSEMBLY AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

in 6-27-01

gross receipts from the sale of and the the persons designated

77.54 (46) (b)

1
2
3
4
5
6
7
8
9
10

At the locations indicated, amend the substitute amendment as follows:

1. Page 847, line 15: after that line insert:

"SECTION 2246p. ~~77.54(46)~~ ^{77.54(46)} of the statutes is created to read:

~~77.54(46)~~ The storage, use or other consumption of ~~advertising~~ ^{printed} materials that are printed outside this state, if the printer ships the materials directly to ~~customers~~ ^{customers} of the purchaser of the ~~advertising~~ ^{printed} materials and the customers are in this state."

2. Page 1403, line 19: after that line insert:

"(5b) ~~ADVERTISING~~ ^{PRINTED} MATERIALS. The treatment of section ~~77.54(4)~~ ^{77.54(46)} of the statutes first applies to ~~advertising~~ ^{printed} materials shipped on January 1, 1990."

3. Page 1423, line 24: after that line insert:

Kreye, Joseph

From: Pirlot, R.J.
Sent: Thursday, June 28, 2001 1:48 PM
To: Kreye, Joseph
Subject: RE: LRBb1767/2

Yes, that's okay.

R.J. Pirlot
Policy Director and Legal Counsel
Office of Assembly Speaker Scott R. Jensen

Direct: 608-261-9482
Fax: 608-266-5123

-----Original Message-----

From: **Kreye, Joseph**
Sent: Thursday, June 28, 2001 1:45 PM
To: Pirlot, R.J.
Subject: LRBb1767/2

R.J.

I spoke to Rob Reinhardt-- who spoke to Ed Eberle--about a redraft of b1767/2 related to printed materials. The redraft would add the following at the end of page 1, line 7: "and the purchaser does not take possession of the printed materials". Is that okay?

Joe

Joseph T. Kreye, Legislative Attorney
Legislative Reference Bureau
(608) 266-2263
joseph.kreye@legis.state.wi.us



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb1767/2

JK:jld:rs

RMR

3

ARC:.....Smith - AM114, 205: Retroactive use tax exemption on advertising materials printed outside the state

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS ASSEMBLY AMENDMENT

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TO 2001 SENATE BILL 55

in 6-28-01

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2 **1.** Page 847, line 15: after that line insert:

3 **"SECTION 2246p.** 77.54 (46) of the statutes is created to read:

4 77.54 (46) The gross receipts from the sale of and the storage, use or other

5 consumption of printed materials that are printed outside this state, if the printer

6 ships the materials directly to the persons designated by ^{the} purchaser of the printed

7 materials." *and the purchaser does not take possession of the printed materials* ✓

8 **2.** Page 1403, line 19: after that line insert:

9 "(5b) PRINTED MATERIALS. The treatment of section 77.54 (46) of the statutes first

10 applies to printed materials shipped on January 1, 1990."



ARC:.....Smith – AM114, 205: Retroactive use tax exemption on advertising materials printed outside the state

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6 ships the materials directly to the persons designated by the purchaser of the printed
7 materials and the purchaser does not take possession of the printed materials.”.

8 **2.** Page 1403, line 19: after that line insert:

9 **“(5b) PRINTED MATERIALS.** The treatment of section 77.54 (46) of the statutes first
10 applies to printed materials shipped on January 1, 1990.”.

