

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1149 (First Edition)

SHORT TITLE: No Sales Tax on Free Publications

SPONSOR(S): Representatives Nesbitt and Luebke

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	(\$million)				
	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>
REVENUES					
General Fund *	(17.25)	(17.25)	(17.25)	(17.25)	(17.25)
Local Governments **	(10.78)	(10.78)	(10.78)	(10.78)	(10.78)
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Department of Revenue, Local Governments.					
EFFECTIVE DATE: This act becomes effective July 1, 2003, and applies to sales made on or after that date.					
* Assumes 4% state sales and use tax rate as of July 1, 2003.					
** Assumes 2.5% local sales and use tax rate as of July 1, 2003.					

BILL SUMMARY: This bill exempts from the state and local sales and use tax the paper, ink, and other ingredients used to produce free circulation publications published on a periodic basis at recurring intervals.

BACKGROUND: Prior law granted a sales tax exemption for sales of paper, ink, and other tangible personal property to commercial printers and publishers for use as component parts in free circulation publications that contained advertising of a general nature. The exemption applied to general shoppers guides but not to more specialized publications such as real estate guides. The First Amendment of the United States Constitution does not allow a state to discriminate between publications based on their content. The prior law exemption clearly violated this rule by exempting guides with general content but not those with narrower content. Section 10 of Senate Bill 1112 (S.L. 1999-438) repealed the exemption, effective October 1, 1999, so that supplies sold for all free publications are subject to tax on a uniform basis.

ASSUMPTIONS AND METHODOLOGY:

Prior to the 2000 Session of the General Assembly, Department of Revenue field auditors were asked to collect free publications from their regions and forward them by courier mail to the central office in Raleigh. These documents were used to estimate the annual statewide sales volumes of free publications. The Tax Research Division of the Department of Revenue used the estimated sales data for free publications, as well as sales and use tax collections data and information from the North Carolina Press Association to estimate the fiscal impact of this proposed tax exemption. Since the 2000 Legislative Session, the Department has studied a free publication court case in Florida and determined that periodic free publications also includes telephone books and items distributed by mail such as packages of coupons, business newsletters, manuals, catalogues, and other advertising. In an October 3, 2001, memo to the General Assembly's Fiscal Research Division, the Tax Research Division estimated the following General Fund revenue loss from exempting free circulation publications based on the 4.5% state sales tax:

	<u>State Sales Tax</u> <u>(millions)</u>
Items not distributed by mail	\$ 5.6
Items distributed by mail	12.8
Telephone books	<u>1.0</u>
Total	\$19.4

The Department of Revenue's Sales Tax Division was contacted on June 20, 2003, to learn whether its estimate on free publications had changed. An email from the Director of the Sales Tax Division on June 23, 2003, confirmed that the Department stands behind its original estimate. The Department offered that the revenue loss would be \$12 million (at 4.5%) if a publication had to be published at least twice a month.

Given that the state sales tax will be 4% as of July 1, 2003, and no budget action has yet been taken to extend the 4.5% tax rate, this fiscal analysis will assume a 4% state sales tax rate. By July 1, 2003, all 100 counties will have adopted an additional half-cent sales tax, thus, a 2.5% local sales tax rate is used. No growth rate was assumed for future years due to the lack of market information for free publications. The revised cost of this bill is shown below using a 4% state sales tax rate and a 2.5% local rate.

	<u>State Sales Tax (4%)</u> <u>(millions)</u>	<u>Local Sales Tax (2.5%)</u> <u>(millions)</u>
Items not distributed by mail	\$ 4.98	\$3.11
Items distributed by mail	11.38	7.11
Telephone books	<u>.89</u>	<u>.56</u>
Total	\$17.25	\$10.78

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: June 24, 2003



Signed Copy Located in the NCGA Principal Clerk's Offices