

SUMMARY OF PROPOSAL #40
for consideration by the
ARKANSAS TAX REFORM AND RELIEF LEGISLATIVE TASK FORCE

TOPIC: Sales Tax Exemption for Magazine and Publications Sold through Subscription

Summary of Proposal for Consideration

To repeal the sales tax exemption on the sale of any publication, other than newspapers, through regular subscription under Arkansas Code § 26-52-401(14), effective for tax years beginning on or after January 1, 2019.

Fiscal Analysis

Repeal of the exemption may result in an estimated \$1,556,266 per year increase to General Revenue based upon FY11, as provided by the Department of Finance and Administration's "Sales and Use Tax Revenue Impact of Exemptions" presentation to the Arkansas Tax Reform and Relief Legislative Task Force on March 19, 2018.

Legal Analysis

Background

Arkansas currently has a sales tax exemption on the sale of any publication, other than newspapers, through regular subscription.

ACT 152 of 1949 created the sales tax exemption only for religious, professional, trade, and sports journals, or publications printed and published within Arkansas.

The United States Supreme Court determined in Ark. Writers' Project v. Ragland, 481 U.S. 221 (1987), that the Arkansas law providing a sales tax exemption only for religious, professional, trade, and sports journals, or publications printed and published within Arkansas, violated the First Amendment's freedom of press guarantee by singling out specific publications.

ACT 617 of 1993 expanded the sales tax exemption to sales of publications sold through regular subscription, regardless of the type or content of the publication or the place printed or published, and has not been amended since.

Potential Legal Issues

None.

Other States

- Iowa: No exemption.
- Louisiana: Sales tax exemption on the sale of periodicals that meet the following definition: an unbound publication appearing at regular intervals, having a second class mailing privilege, having a bona fide paid circulation to actual subscribers, publishing a substantial part of its content as news matter, and containing reports of happenings of recent occurrence of a varied character, such as political, social,

moral and religious subjects and designed for the information of the general reader. (LA St. § 47:301)

- Mississippi: Sales tax exemption on the sale of daily or weekly newspapers and periodicals or publications of scientific, literary or educational organizations exempt from Federal income taxation under Section 501(c)(3) of the Internal Revenue Code of 1954 as it existed on March 31, 1975, and subscription sales of all magazines. (MS St. §27-65-111)
- Missouri: Sales tax exemption on the sale of newspapers published for the dissemination of news to the general public, publications that are published at stated short intervals, usually daily or weekly, and contain news of current events available for distribution to anyone; that do not, when successive issues are put together, constitute a book; and that are generally in sheet form. (MO St. §144.030)
- Oklahoma: Sales tax exemption on the sale of newspapers and periodicals, regardless of whether purchased by single copy or subscription. (OK St. 68 § 1354)
- Tennessee: Sales tax exemption on magazines and books that are distributed and sold to consumers by United States mail or common carrier, where the only activities of the seller or distributor in this state are those activities having to do with the printing, storage, labeling, or delivery to the United States mail or common carrier of the magazines or books, or the maintenance of raw materials with respect to those activities, notwithstanding that the seller or distributor maintains employees in the state solely in connection with the production and quality control of the printing, storage, labeling, or delivery, or in connection with news gathering and reporting. (TN St. § 67-6-329)
- Texas: Sales tax exemption on the sale of subscriptions to magazines that are sold for a semiannual or longer period and sent as second-class mail. (TX St. § 151.320)