



Am. Sub. S.B. 37
125th General Assembly
(As Passed by the General Assembly)

Sen. Blessing

**Reps. Kilbane, Latta, Carano, McGregor, Cates, S. Patton, T. Patton,
J. Stewart**

Effective date: *

ACT SUMMARY

- Clarifies that packaging materials used by persons engaged in highway transportation for hire are subject to state and local sales or use taxes.
- Moves an existing sales tax exemption for transfers of motion picture films to a separate exemption provision.
- Modifies the notice requirements pertaining to delinquent real property tax certificate sales.

CONTENT AND OPERATION

Taxation of packaging materials

(R.C. 5739.01(D)(6) and 5739.02(B)(15) and (32))

The act clarifies that state and local sales or use taxes apply to "packages" used by persons engaged in "highway transportation for hire"--generally goods moving companies. Under continuing law, "packages" includes bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices and containers. The act revises the definition to provide that it does not include motor vehicles or bulk tanks, trailers, or similar devices attached to motor vehicles.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

The act provides that a moving company is the consumer of all packaging materials purchased by that person used in performing the transportation service, except for packaging materials sold by that person in a transaction separate from the service. This revision clarifies that a moving company is the person that must pay the sales or use tax on packaging materials, unless the moving company sells the materials to a purchaser in a separate transaction, in which case the moving company is required to collect the sales tax from the purchaser and remit it to the state.

The act provides that movers cannot claim existing sales and use tax exemptions available to retailers that purchase packages for use in packaging tangible personal property for retail sale, or to manufacturers for packages purchased to ship goods manufactured by them.

Continuing law provides that the sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property by a mover is not subject to the sales tax. The act adds that the property transported must belong to others to qualify for the exemption, and that the exemption does not apply to packages and packaging used for the transportation of tangible personal property.

Motion picture films

(R.C. 5739.01(B)(5) and (9))

Under continuing law, the transfer of copyrighted motion picture films for exhibition purposes is not a sale, and therefore not taxable, unless the films are used solely for advertising purposes. This tax exemption is in the same provision that establishes an exemption for construction contracts. The act moves the motion picture film exemption to a separate provision.

Notice of delinquent real property tax certificate sales

(R.C. 5721.31)

Under continuing law, counties may seek to accelerate the collection of delinquent real property taxes by selling the right to the delinquent taxes to third parties. These rights are evidenced by "tax certificates," which are sold at public auction or, in some counties, in a private, negotiated sale. Proceeds from certificate sales are applied toward the tax debt owed to subdivisions. Potential certificate purchasers bid or negotiate the rate at which interest accumulates on the delinquent taxes before they are collected. If the property owner does not pay the delinquent taxes and interest, a foreclosure action may be brought against the property at any time within three years after a certificate is sold.

Under current law, before a tax certificate is sold with respect to delinquent property, the county must send notice of the sale to the last known owner of the property and to any lienholders or other persons who have a recorded interest in the property. The notice must be sent by certified mail. The act requires the county to send the certificate sale notice either to the last known owner or to the lienholders or other interested parties, but not necessarily to both sets of persons. The bill does not affect the separate requirement, under ongoing law, to send notices to the owner and to all interested parties before a foreclosure action begins.

HISTORY

| ACTION | DATE | JOURNAL ENTRY |
|---|----------|---------------|
| Introduced | 02-25-03 | p. 141 |
| Reported, S. Ways & Means & Economic Development | 05-07-03 | p. 318 |
| Passed Senate (33-0) | 05-07-03 | pp. 322-323 |
| Reported, H. Ways & Means | 06-24-03 | p. 945 |
| Passed House (93-6) | 06-24-03 | pp. 951-952 |
| Senate concurred in House amendments (33-0) | 06-25-03 | pp. 874-875 |

03-sb37-125.doc/kl

