

12-36-2120(58)

**In SUPPORT of the Exemption for  
Cooperative Direct Mail Promotional Advertising Materials**

**1. Adequacy**

The exemption should be broadened as follows to meet our understanding of the legislative intent in enacting the exemption (additions underlined):

12-36-2120(58) incidental direct mail and cooperative direct mail promotional advertising materials and solo direct mail advertising materials and promotional maps, brochures, pamphlets, or discount coupons by nonprofit chambers of commerce or convention and visitor bureaus who are exempt from income taxation pursuant to Internal Revenue Code Section 501(c) delivered at no charge by means of interstate carrier, a mailing house, or a United States Post Office to residents of this State from locations both inside and outside the State. For purposes of this item 'incidental direct mail' advertising materials' means discount coupons, advertising leaflets, and similar printed advertising, including any accompanying envelopes and labels no greater than 6 pages in length which are distributed to potential customers, at no charge to the potential customer, of the businesses paying for the delivery of the material. For purposes of this item, 'cooperative direct mail promotional advertising materials' means discount coupons, advertising leaflets, and similar printed advertising, including any accompanying envelopes and labels which are distributed with promotional advertising materials of more than one business in a single package to potential customers, at no charge to the potential customer, of the businesses paying for the delivery of the material.

The equitable and efficiency aspects of the expanded exemption are discussed below. The estimated fiscal impact of the expansion is \$50,000. The language is patterned after a similar exemption in Massachusetts. Additional information is provided in 4.d. below to explain why the exemption is limited to materials no greater than 6 pages in length.

## **2. Equitable**

The exemption is necessary to achieve equity among competing advertising industries. The exemption is necessary to allow small businesses to use media advertising since many forms of media advertising are cost prohibitive to small businesses.

- a. Charges for media advertising placement are generally tax exempt. Customers have difficulty understanding or accepting that cooperative direct mail is taxable when other forms of media advertising are exempt.
- b. Broadcasters and periodical publishers compete against cooperative direct mail advertising businesses for placement of media advertisements.
- c. Media advertising is generally defined as the mass and indiscriminate communication to deliver a promotional or advertising message in or on a preexisting medium.
- d. Cooperative direct mail advertising meets this definition: it is typically distributed using a saturation mailing list meaning that every address on a postal carrier route receives the same message and is scheduled for distribution on a predetermined basis. The exemption allows cooperative direct mail advertising businesses to compete against other types of media advertising.
- f. The majority of advertisements in a cooperative direct mail advertising publication are placed by small local businesses and franchisees advertising goods and services for sale in the community.
- g. The majority of advertisements included in a cooperative direct mail advertising publication are sold by local advertising agents and local advertising businesses.
- h. Cooperative direct mail advertising is valued by middle-income households who are most likely to clip the coupons and respond to the offers included in cooperative direct mail advertising.
- i. Small businesses occasionally pay for a solo direct mail advertising distribution which are typically related to a specific event such as a sale, new product, new store or new menu and are also saturation mailings. Solo mailings by small businesses are approximately 5 to 7% of cooperative mailings in terms of sales volume. Customers have difficulty understanding or accepting that cooperative direct mail is exempt while solo direct mail is taxable.

### **3. Efficiency**

- a. Taxing each individual advertisement or each piece of mail is inefficient. The tax administration cost of taxing each piece of cooperative direct mail advertising (or each insert or coupon included in the packet) based on the recipient's mail address is not efficient especially when one considers that the cost of materials for each item is only pennies.
- b. Small businesses use cooperative direct mail advertising to stimulate local spending. If this form of media advertising is singled out for taxation, it will raise the cost of local, low-cost media advertising and reduce the amount of advertising spending by the local business. This in turn will reduce sales to consumers and further reduce tax revenues. Leaving this exemption intact will support local advertising to spur local spending and will be an investment to spur additional tax revenues from consumer spending.
- c. Direct mail advertising is a very effective form of media advertising and is value-priced for small businesses. Small business customers are very loyal supporters of cooperative direct mail advertising and see the direct benefits (increased sales) of media advertising when customers enter their store with coupons, flyers and menus in hand.

### **4. Additional Information**

- a. There is no trade association to represent cooperative direct mail advertising customers or businesses.
- b. This industry must compete for advertising dollars against many industries which are well represented by lobbyists and trade associations which have more resources to protect their advertising tax exemptions.
- c. The cooperative direct mail advertising exemptions which exist in a number of states are largely the result of efforts by local businesses in the state and are not the result of multistate lobbying efforts.
- d. The language does not allow the exemption to catalogs and sale flyers greater than 6 pages in length as these types of materials are clearly excluded. They do not meet the

definition of incidental. We are not opposed to an exemption for these more substantial materials but regard it as a separate exemption to be justified on its own merits.

- e. Local businesses using direct mail advertising are registered for sales tax collection in South Carolina so increasing their sales will increase tax revenue.
- f. For additional information, please contact Melanie Hill, Outsource SALT, LLC at [melanie.hill@outsourcesalt.com](mailto:melanie.hill@outsourcesalt.com) or 864/908-9659.

<b>UNIFORMITY AMONG NEIGHBORING STATES</b>					
	<b>South Carolina</b>	<b>Alabama</b>	<b>Georgia</b>	<b>North Carolina</b>	<b>Tennessee</b>
<b>Cooperative direct mail</b>	Exempt	Taxable	Taxable	Taxable*	Exempt
<b>Conditions for exemption</b>	No conditions				No conditions
<b>Reference</b>	Reg. 117-309.3 for printers, Sec. 12-36-2120(49) for mailers & ad agencies	CCH's 2009 Multistate Corporate Tax Guide, page II-116	Reg. 560-12-2-.45	CCH's 2009 Multistate Corporate Tax Guide, page II-118, Sec. 105-164.13(49a)	Sec. 67-6-344

\* North Carolina previously had an exemption which applied to cooperative direct mail advertising which was repealed; it was subsequently reinstated but narrowed to cover materials distributed by newsstand or hand-delivery.