

SALES AND USE TAX REVIEW COMMISSION

RECOMMENDATION PURSUANT TO P.L. 1999, C. 416

BILL NUMBER: S-2319

**DATE OF
INTRODUCTION:** 4/20/01

SPONSOR: Senator Adler

**DATE OF
RECOMMENDATION:** 5/30/01

IDENTICAL BILL:

COMMITTEE: Senate Environment

DESCRIPTION:

This bill would authorize a refund of sales and use tax paid with respect to certain costs incurred in the rehabilitation of historic property. In addition, other state tax benefits would be enacted that are outside the scope of this review.

ANALYSIS:

There already is a similar federal tax credit that may sufficiently act as the desired incentive for rehabilitations. Adding on a state incentive may merely give a windfall to the concerned taxpayers. This may particularly be true for homeowners, due to the federal tax treatment of gains from the sale of a personal residence. Under the federal treatment, homeowners who "rehabilitated" a home and then sold it would essentially be exempt from federal income tax on the increase in value produced by the rehabilitation (within the federal tax limitations.)

Also, there is a concern regarding the proposed Sales & Use Tax exemption. Because eligibility for the exemption depends upon matters outside the expertise of Division of Taxation employees, the provision specifying that the exemption will operate via a refund procedure, rather than at the point of sale, is a good one. The Division is

aware that properties designated for special historic preservation restrictions are subject to strict standards for many aspects of construction, painting, and maintenance, and that repairs and improvements to such properties are therefore more costly than they are for typical properties.

It is assumed that the proposed tax benefits are designed to both encourage and compensate owners of historic properties who comply with the preservation restrictions. However, in many if not most cases, the materials will be purchased by contractors, not by the property owner. The contractor will then be able to obtain a refund on sales tax paid or will be exempt from paying compensating use tax. Since contractors frequently charge a lump sum, the property owner will not even know the extent of the tax benefit the contractor has enjoyed. There is no way to require the contractor to pass on the sales and use tax savings to the owner of the historic property. Thus the contractors may get a windfall, and the property owner may never have the benefit of this exemption.

RECOMMENDATION:

The Sales and Use Tax Review Commission does not recommend this bill for enactment.

COMMISSION MEMBERS FOR PROPOSAL:

COMMISSION MEMBERS AGAINST PROPOSAL: 5

COMMISSION MEMBERS ABSTAINING:

COMMISSION MEETING DATE: May 30, 2001