**Clarify No Double-Taxation of Industrial Laundry and Linen Supply Services - Support H.B. \_\_\_\_\_**

Effective July 1, 2018, the General Assembly imposed KY sales tax on “**industrial laundry services**” and “**linen supply services**” , which created new taxable categories to include the rental of uniforms, linens, and other similar property.

Prior to that change, the uniform and linen supply industry paid KY sales or use tax on uniforms and linens purchased for rental to their customers and no sales tax was owed by the customers for charges for the linen and uniform services.

Because the industry’s charges to customers became taxable, the industry stopped paying KY sales or use tax on their purchases and, in accordance with the new law, began charging customers sales tax.

**A. DOUBLE-TAXATION/TAX PYRAMIDING**

The KY Department of Revenue (“**DOR**”) recently has taken the position that the industry must BOTH (a) pay KY use tax on purchases of uniforms and linens and (b) charge KY sales tax again on charges for supplying those items to customers. The DOR has assessed additional tax and interest with respect to the industry’s purchases beginning July 1, 2018.

The DOR’s position effectively imposes Kentucky sales tax twice on uniforms and linens (double taxation), and imposes sales tax on sales tax (tax pyramiding).

It is the view of the TRSA that

* No other state in the country applies sales and use tax both to the purchase of the uniforms, linens, and similar property and again to the charges for supplying those items to customers;
* The DOR’s position is contrary to the existing resale exemption, which exempts the purchase of tangible personal property for the purpose of renting or leasing the property to the end user;
* The DOR’s interpretation:
  + makes KY an outlier regarding sales taxation of uniforms, linens, and other similar items;
  + puts KY at a competitive disadvantage and creates an incentive for multi-state uniform and linen suppliers to move their KY locations to contiguous or other states;
  + violates principles of good tax policy;
  + violates uniformity by discriminating between renters and sellers – the DOR allows a resale exemption to uniform and linen suppliers who sell the items they clean, but denies the exemption to those who rent the items they clean;
  + makes the tax **economically inefficient** and **non-neutral**, discouraging use of “industrial laundry services” and “linen supply services” and instead encouraging businesses to purchase and clean their own uniforms and to purchase disposable napkins and other items as opposed to reusable items; and
  + makes the tax **less transparent** – rather than the ultimate customer paying tax on the final purchase, a greater amount of tax is paid by the customer without their knowledge;
* The General Assembly should clarify the availability of the resale exemption effective retroactively to July 1, 2018; and
* This legislative clarification would have no fiscal impact on state revenue because industry members have not submitted any use tax given the collection and remittance related to the sales tax provisions which became effective July 1, 2018.

**B. ADDITIONAL COSTS PASSED ON TO KENTUCKY BUSINESSES**

The General Assembly in levying sales tax on “**industrial laundry services**” and “**linen supply services**” did not intend to either (i) double-tax uniforms, linens and similar property supplied to KY customers or (ii)impose tax on tax (increasing the cost of these items for gas stations, butcher shops, restaurants, hospitals, manufacturers, and other customers). The DOR’s interpretation is anti-business and contradicts the pro-business environment the legislature seeks to create.

The General Assembly should amend the KY sales and use tax statutes, retroactive to July 1, 2018, to make clear that industry members are entitled to the sale for resale exemption.