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POSITION STATEMENT ON A TAX ON LEGAL SERVICES

The State Bar of Michigan opposes the adoption of legislation that burdens the public's access to justice, including the adoption of a tax on legal services.

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- A tax on legal services is a tax on citizens and businesses, not lawyers.
- Individuals and businesses seek legal advice in order to ensure compliance with the law. A tax on legal services would discourage individuals from seeking such advice. Failure to seek early legal advice could potentially result in more complex legal problems for individuals and businesses at later stages.
- A sales tax on legal services would deter individuals and businesses from taking proactive and responsible management measures, e.g. drawing a will, medical preferences, appointing guardians, incorporating a business.
- Individuals and businesses secure legal services for the purpose of ascertaining, exercising, and defending their legal rights, including constitutionally protected rights such as the right to representation for criminal defense.
- A tax on legal services is a tax that would add a tremendous burden on individuals and businesses already facing significant financial stress and misfortune, e.g. bankruptcy, domestic violence, divorce, child support, debt collection.
- Most legal services are not discretionary.
- A tax on professional services would be detrimental to Michigan business interests, encouraging individuals and businesses to seek legal services out of state. Small business firms would be affected at a much higher occurrence than large businesses that employ in-house counsel that would not be subject to the tax. Large businesses would be discouraged from seeking outside counsel for specialty or technical issues.
- Many legal transactions, such as property transfers and estate administration, are already taxed. Imposing a tax on legal services would result in double taxation for these transactions.
- Audits of taxes on legal services invade attorney/client confidentiality.
- The administrative and business difficulties experienced by Florida¹ and Massachusetts² in the wake of the passage of a tax on services that included legal services caused both states to repeal the tax.

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¹ Florida extended its sales tax to professional services, newspapers and advertising in July of 1987 and repealed it six months later in a special session of the Legislature.

² Massachusetts passed a tax on legal services, accountants, newspapers, and other services provided to businesses in July of 1990, and repealed it two days after it took effect in early 1991.