PENNSYLVANIA
BANKERS ASSOCIATION

TO: **The Honorable Members, Senate Majority and Minority Policy Committees**

RE: **PBA Opposes Property Tax Proposals that Would Expand the PA Sales Tax to Include Financial and Other Professional Services**

DATE: **December 10, 2013**

The Pennsylvania Bankers Association (PBA) appreciates the opportunity to provide comments to the Senate Majority and Minority Policy Committees regarding the issue of property relief that is the subject of a joint roundtable discussion on December 10, 2013. PBA's comments will focus specifically on Senate Bill 76.

PBA opposes Senate Bill 76 and has consistently opposed prior versions of this legislation that seek to reduce school district property taxes by proposing to expand the taxable base of Pennsylvania's Sales and Use Tax to include professional services such as financial, accounting or legal services.

We believe Senate Bill 76 lacks clarity regarding which financial services would be taxed under the proposal. The recent Independent Fiscal Office report on the legislation only increases our misgivings and strong concerns about the legislation and precisely what financial services would be subject to what in essence is a new tax.

For individuals and households, banking services are essential to a basic standard of life and in many cases, purchasing these services cannot be avoided. A sales tax on any basic necessity inherently makes the tax system more regressive.

The imposition of a sales tax on banking products and services may place a greater tax burden on Pennsylvania's low-income citizens and senior citizens because they either lack the means to move their accounts through the Internet or lack the financial education required to take the steps needed to reduce the sales tax.

We believe that state and federal public policy should be encouraging Pennsylvanians and Americans to save for the important purchases consumers face including homes, college, and retirement. At a time when this nation has an extremely low savings rate, we believe this new tax on various banking services is counterproductive and could discourage savings.

Saving is also crucial to our businesses to ensure they have access to the capital funds they need to grow their businesses and create jobs. And while the implementation of a sales tax on financial services could discourage savings, it will also make lending more difficult and costly.

At a time when public policy makers are encouraging increased lending and other proposals to spur economic development, subjecting financial services or other professional services to a sales tax would impede our members' ability to help drive the economic recovery.

Taxing services creates issues with multiple taxing jurisdictions. Several factors create the likelihood that multiple taxing jurisdictions (with different tax rates and different exemptions between localities) will be affected, making the sourcing of the service difficult, if not impossible, to determine.

Services frequently involve the work and talent of multiple individuals in multiple locations. Consequently, a single point of creation of the service is often indeterminable.

Additionally, service delivery often involves multiple stages to arrive at a final product. Often, a project can span many months. It is difficult to determine when the final product is ultimately delivered.

A sales tax on services brings tremendous enforcement and compliance issues, increased compliance costs, and numerous administrative burdens.

A basic tenet of sound tax policy is that a tax should be structured to minimize noncompliance. Compliance with the existing sales tax on tangible property is very high (possibly with the exception of the use tax); compliance with a new tax on services may not be. Most service providers are small businesses that do not deal with state tax law on a regular basis. They will not have the expertise to comply with this additional burden. In addition, the enforcement of a tax on services at the consumer level would be nearly impossible.

A tax on services creates a different set of requirements than normal retail point-of-sale collection procedures. It entails a dramatically increased number of new vendors that must be registered and monitored, and adds complexities of collection of use tax by out-of-state vendors. There is also the difficulty of defining which services are subject to the tax.

Proposals to expand the sales and use tax to include professional and other goods and services would result in a "pyramiding" effect as the sales tax on a particular good or service would result in multiple, additional taxation of the same good or service.

For example, the cost of making a new loan would include not only the 7% sales tax the financial institution would have to collect on the fee associated with making the loan, but potentially the additional flow-through sales tax the financial institution would have to pay for any accounting, computer, data processing, or legal services (such as bond counsel) that are part of the cost of providing the fee based financial service.

The proposal would present a significant administrative burden upon financial institutions to collect sales and use tax on investment and other financial services. Financial institutions' tax burden would include significant outlays to change and manage processes to capture and pay sales and use tax on fee based financial services. Financial institution's software has been built without the components necessary to determine what services are subject to sales tax, let alone collect sales tax. Entire systems and computer programs would need to be redesigned for this purpose and due to the complexities of sourcing, the software would need to be substantially more sophisticated than typical point-of-sale software.

PBA is also concerned that it will be left up to the Department of Revenue to determine exactly what constitutes a financial service that will now be subject to sales tax. While we respect the work and professionalism of the Department and its staff, there is too much uncertainty in Senate Bill 76 to leave it up to a state agency to interpret the intent of the bill.

When the General Assembly expanded the Sales and Use Tax in 1991 to include computer services, the Department of Revenue so broadly interpreted and implemented the statute that nearly every financial service that utilized computer software or hardware was deemed to be a computer service and subject to taxation. This created a substantial compliance burden, placed Pennsylvania in a very uncompetitive position relative to other states, and increased the overall tax burden for all businesses utilizing computer services. As a result, the Computer Services Sales Tax was repealed by the General Assembly in 1997.

To attempt to be in compliance with this bill, financial institutions would be forced to use manual spreadsheets to determine how much sales tax to collect and remit. A large portion of financial institutions' business is comprised of low fees on a high volume of transactions. A single regional financial institution can have over one million transactions per year related to ATM transactions alone. Additionally, there are transactions and fees for savings and checking accounts, account service fees, overdraft fees, and loan making fees. Financial institutions in Pennsylvania would struggle to comply with the proposed legislation with such a minimal amount of time to prepare for the change.

This new tax burden on Pennsylvania citizens will force those who are sophisticated enough to move their banking business and depository dollars to out-of-state financial service providers and depository institutions to avoid payment of the tax. We do not believe it is the intent of any such proposed legislation to encourage an outflow of what could be substantial dollars away from Pennsylvania's economy to other states. But in an increasingly mobile and price-sensitive society in which consumers may move their banking business and savings with ease through use of the Internet and mobile banking, we feel that this could be a very real outcome of the legislation.

Businesses with locations in multiple states would also be incented to conduct their banking affairs outside of Pennsylvania. In the current economy, businesses are increasingly forced to conduct their banking business with whichever institution is able to provide the lowest rates and fees, irrespective of prior relationships or loyalty. The increased costs associated with the administrative burden of this proposed legislation, the increased cost for banking operations due to the sales tax to be paid by the bank as a user of services, as well as the levy of sales tax on the final transaction with customers would place Pennsylvania banks at a competitive disadvantage with banks operating in neighboring states.

To reiterate, our neighboring states to the north, south, east and west have seen fit to exempt the services being discussed today from sales tax, likely for many of the reasons PBA is describing in these comments. If Pennsylvania imposes a tax on services such as these, which are mobile and electronic, it will place Pennsylvania based banks on an unequal footing with their counterparts in neighboring states, raise prices and interest rates for Pennsylvania consumers and business without the means or ability to conduct their affairs elsewhere, and it will incent other consumers and business to conduct business that they would otherwise do in Pennsylvania, elsewhere.

In conclusion, I hope you agree that subjecting financial institution services as well as accounting and legal services to a sales tax will have a serious, detrimental impact on Pennsylvania's financial institutions and their customers as well as place Pennsylvania financial institutions at a competitive disadvantage with those in other states that do not broadly subject such services to sales and use tax. PBA urges the General Assembly not to consider any such proposals.

Thanks for considering our views.

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