# NEWSPRINT & PRINTER'S INK, AND NEWSPAPERS EXEMPTIONS

EVALUATION SUMMARY

SEPTEMBER 2018
2018-TE9

THESE EVALUATIONS ARE INCLUDED IN COMPILATION REPORT SEPTEMBER 2018

| | NEWSPRINT & PRINTER'S INK EXEMPTION | NEWSPAPERS EXEMPTION |
|---|---|---|
| YEAR ENACTED | 1943 | 1943 |
| REPEAL/EXPIRATION DATE | None | None |
| REVENUE IMPACT | $500,000 (CALENDAR YEAR 2017) | $2,700,000 (CALENDAR YEAR 2017) |
| NUMBER OF TAXPAYERS | Could not determine | Could not determine |
| AVERAGE TAXPAYER BENEFIT | Could not determine | Could not determine |
| IS IT MEETING ITS PURPOSE? | Yes | Yes |

## WHAT DO THESE TAX EXPENDITURES DO?

The Newsprint & Printer's Ink Exemption exempts newspaper publishers and commercial printers from paying state sales and use tax on their purchases of the two primary tangible inputs of print newspapers, newsprint and printer's ink.

The Newspapers Exemption excludes the sale of newspapers from state sales and use tax.

## WHAT DID THE EVALUATION FIND?

The exemptions are generally meeting their purpose since retailers, newspaper publishers, and commercial printers are aware of them and use them regularly and newspaper customers are not charged a sales tax on their purchase of newspapers.

## WHAT IS THE PURPOSE OF THESE TAX EXPENDITURE?

Statute does not explicitly state a purpose for either of the tax expenditures. However, in the legislative declaration for the 1943 bill that created these exemptions, the General Assembly stated that its intention was to clarify that it never intended to tax newspaper sales and that, in practice, such sales had not been taxed. Therefore, we inferred that the purpose of the exemptions was to clarify the definition of the types of purchases that are subject to the state sales tax. Most states with sales taxes do not tax sales of newsprint and printers ink because these goods are considered to be inputs to a the final product sold

## WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

The General Assembly could consider clarifying the publications that are eligible for the Newspapers Exemption and whether it should apply to digital editions of newspapers.

to a consumer and sales taxes are typically intended to only tax the final purchase of a good by the consumer. Furthermore, because states have traditionally considered newspapers as serving an important role in informing the public and a forum for legal notices, excluding the sale of newspapers from sales tax is a common provision across states with a sales tax.

# NEWSPRINT & PRINTER'S INK, AND NEWSPAPERS EXEMPTIONS

## EVALUATION RESULTS

### WHAT ARE THE TAX EXPENDITURES?

This evaluation covers two sales and use tax exemptions that apply to the newspaper industry for: (1) newsprint and printer's ink purchased and used by newspaper publishers and commercial printers (Newsprint & Printer's Ink Exemption); and (2) the sale and distribution of newspapers (Newspapers Exemption). Colorado enacted a sales tax in 1935 and a use tax in 1937. Both exemptions were created in 1943, and the use tax exemption was added to the Newsprint & Printer's Ink Exemption in 1945.

Under the Newsprint & Printer's Ink Exemption, newspaper publishers and commercial printers are exempt from paying state sales and use tax on newsprint and printer's ink because these sales are deemed to be wholesale sales, which are exempt from Colorado sales and use tax [Sections 39-26-102(19)(a), 102(21), and 705(1), C.R.S.]. Retailers and wholesalers that sell newsprint and printer's ink subtract the exempt sales from their net sales on the Retail Sales Tax Return (Form DR 0100) by including the amount exempted on the "other exemptions" line on the form, which aggregates several exemptions that do not have specific reporting lines.

The Newspapers Exemption exempts purchases of newspapers from state sales and use tax [Section 39-26-102(15), C.R.S.]. Department of Revenue guidance states that digital copies of newspapers are exempt in the same manner as printed newspapers. Newspaper publishers who do not sell other products are exempt from retail sales tax reporting requirements and therefore, are not required to report newspaper sales to the Department of Revenue. However, if a publisher sells other products that are subject to sales tax, then they must apply for a retail sales tax license and would be required to report newspaper sales, along with the other sales, and report the amount of the exemption on their Retail Sales Tax Return (form DR 0100) on the "other exemptions" line.

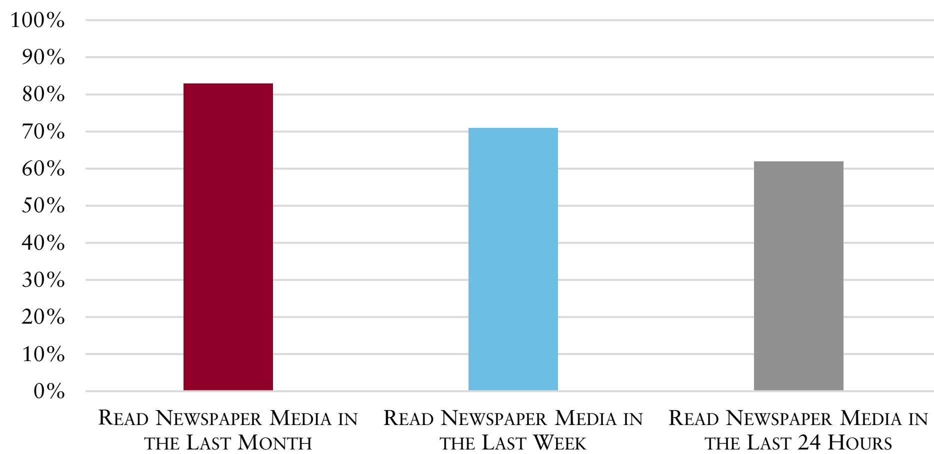
In addition, sales of newsprint and printer's ink to newspaper publishers and commercial printers and sales of newspapers are exempt from local sales taxes for purchases made in local governments, such as cities, towns, and counties, that have their local sales taxes collected by the State on their behalf. Statute [Section 29-2-105(1)(d)(I), C.R.S.] mandates that these local governments apply most of the State's sales tax exemptions, including the Newsprint & Printer's Ink Exemption and Newspapers Exemption. Home rule municipalities established under Article XX, Section 6 of the Colorado Constitution that collect their own taxes have the authority to set their own tax policies independent from the State and are not required to exempt such sales from their local sales tax. Based on our review of the 15 most-populated home rule cities, all exempt both newsprint and printer's ink from sales tax, and only Denver and Broomfield impose a sales tax on newspapers.

## WHO ARE THE INTENDED BENEFICIARIES OF THE TAX EXPENDITURES?

Statute does not explicitly identify the beneficiaries of the Newsprint & Printer's Ink Exemption or the Newspaper Exemption. We inferred that newspaper publishers and commercial printers are the intended beneficiaries of the Newsprint & Printer's Ink Exemption since they are the only parties eligible for the exemption. Newspaper purchasers are also indirect beneficiaries of the Newsprint & Printer's Ink Exemption because, by not paying tax on inputs, newspaper publishers' printing costs are lower and, therefore, some of the savings may be passed on to purchasers through lower retail prices.

We inferred that the beneficiaries of the Newspapers Exemption are newspaper purchasers and newspaper publishers, including publishers of free newspapers since they would be responsible for paying use tax if the exemption did not exist. More than half of Coloradans access newspaper media in some format and thus, benefit from the exemptions. In 2017, Pulse Research, a newspaper market research company, conducted a survey to measure Colorado newspaper readership and found that most Coloradans read newspapers on a regular basis (though the survey did not measure how many of them pay for newspapers). This information is summarized in EXHIBIT 1.1. Additionally, in the survey, 22 percent of participants reported reading the newspaper in print format only, 28 percent reported reading it in both digital and print formats, and 33 percent reported reading it in digital format only.

EXHIBIT 1.1. COLORADO NEWSPAPER READERSHIP IN 2017




SOURCE: Pulse Research Colorado Readership Survey, 2017.

## WHAT ARE THE PURPOSES OF THE TAX EXPENDITURES?

### NEWSPRINT & PRINTER'S INK EXEMPTION

Statute does not explicitly state a purpose for the Newsprint & Printer's Ink Exemption. We inferred that the purpose of this exemption is to define the types of sales subject to state sales tax and avoid charging sales taxes on the production inputs of newspapers and commercial printers. Based on our research of other states' tax expenditures, this is a typical structural tax expenditure in most states with sales taxes. According to tax policy guidance prepared by the National Conference of State Legislatures, many economists believe that sales and use taxes should not apply to transactions in which the purchaser is not the final consumer of the goods sold.

### NEWSPAPERS EXEMPTION

Statute does not explicitly state a purpose for the Newspapers Exemption. Based on the legislative history of the provision, we inferred that its intended purpose was to clarify which purchases were intended to be taxed under the State's sales tax, enacted in 1935. Specifically, the legislative declaration for House Bill 43-155 that created the exemption, states that it was always the General Assembly's intent to exempt newspapers in their entirety from sales and use tax and that, in practice, they had never been taxed. This policy is consistent with other states with a sales tax provision, most of which have historically exempted newspapers from sales taxes because of their importance in fostering a more informed public and serving as a forum for posting required legal notices. Department of Revenue guidance states that another reason newspapers may have been exempted from sales and use tax was due to the difficulties related to collecting a penny or two on each sale, particularly when sold through coin-operated machines.

## ARE THE TAX EXPENDITURES MEETING THEIR PURPOSES AND WHAT PERFORMANCE MEASURES WERE USED TO MAKE THIS DETERMINATION?

We determined that the Newsprint & Printer's Ink Exemption and Newspapers Exemption are both meeting their purposes. Specifically, newspaper publishers, commercial printers, and newspaper retailers are aware of the exemptions and both exemptions generally appear to be applied to applicable sales.

Statute does not provide quantifiable performance measures for these tax expenditures. Therefore, we created and applied the following performance measure to determine the extent to which the exemptions are meeting their inferred purpose.

**PERFORMANCE MEASURE:** *The extent to which sales of newsprint and printer's ink purchased by newspaper publishers and commercial printers, and newspapers purchased by consumers are being exempted from state sales and use tax.*

**RESULT:**

**NEWSPRINT & PRINTER'S INK EXEMPTION.** Although we lacked data to quantify the proportion of sales of newsprint and printer's ink sold to newspaper publishers and commercial printers to which the exemption has been applied, we interviewed representatives from 23 Colorado newspapers, and all of them reported that they have not paid state sales or use tax on newsprint and printer's ink. Two of the stakeholders that we interviewed also oversee substantial newspaper printing businesses in Colorado. Both stated that newsprint and printer's ink have continuously and consistently been exempted from Colorado sales and use tax. In some instances, stakeholders reported that they periodically must provide their printer's ink suppliers or distributers with documentation, such as an affidavit, attesting that the printer's ink is being used to print newspapers.

**NEWSPAPERS EXEMPTION.** The newspaper representatives we contacted reported that retail sales of their publications are also consistently exempted from sales and use tax. The Department of Revenue has issued guidance to retailers, which provides that sales of newspapers should not be subject to state sales tax.

## WHAT ARE THE ECONOMIC COSTS AND BENEFITS OF THE TAX EXPENDITURES?

### NEWSPRINT & PRINTER'S INK EXEMPTION

We estimate that the Newsprint & Printer's Ink Exemption reduced state tax revenue by about $500,000 in Calendar Year 2017. We derived our estimate from Colorado newsprint annual demand data and annual average newsprint price data available from the Pulp and Paper Products Council and from financial data provided to us in stakeholder interviews. Specifically, we obtained data from the Pulp and Paper Products Council, a trade group representing paper products manufacturers, on the volume of newsprint sold and the average price of newsprint in Colorado in 2017. Using that data, we estimated that approximately $16.7 million in newsprint sales occurred in Colorado in 2017, though it is important to note that this may overestimate eligible sales because some of these purchases may not have been made by newspaper publishers and commercial printers. We were unable to identify a source to directly obtain data on total printer's ink sales in Colorado; however, we obtained data from two substantial newspaper printers in Colorado and used that data to create an average ratio of the cost of printer's ink compared to newsprint, which was about $.06 for every $1.00 of newsprint sales. We used the ratio to estimate that there were about $1 million in printer's ink sales in Colorado in 2017. We then multiplied the printer's ink and newsprint sales estimates (totaling $17.7 million) by the State sales tax rate of 2.9 percent.

We also estimated that the exemption reduced local government revenue by about $300,000 in Calendar Year 2017. To estimate this amount, we used the same sales revenue estimate arrived at for calculating the state revenue impact ($17.7 million), but applied the population-weighted average local sales tax rate, excluding home rule jurisdictions with self-collected local sales taxes, of 1.8 percent.

Due to trends in the newspaper industry, the revenue impact of this expenditure may decline over time. While the price of newsprint has gradually risen over the past few years, the demand in Colorado for newsprint has continually declined since print circulation has decreased for most newspapers. This exemption will likely have a diminishing impact on State tax revenue if demand for newsprint and printer's ink continues to decline.

## NEWSPAPERS EXEMPTION

We estimate that the Newspapers Exemption reduced State tax revenue in calendar year 2017 by about $2.7 million. This estimate was calculated using U.S. Census Bureau Economic Census data for newspaper publishers in Colorado, which reports $85.2 million in sales and subscriptions of general and specialized newspapers in 2012 in Colorado. We then increased the sales reported by the U.S. Census Bureau by about 7 percent using national newspapers sales trends information from a 2018 report issued by the Pew Research Center to arrive at an estimate of $91.4 million in newspaper sales for Calendar Year 2017. We then multiplied this figure by the State sales and use tax rate of 2.9 percent.

Our estimates have the following limitations:

- The data is from the 2012 Economic Census, which was the most recent data available, and accounts for print sales and subscriptions only. The estimate does not include online sales and subscriptions to newspapers because we were unable to identify a reliable source of data regarding online sales and subscriptions.

- The estimate does not account for forgone use tax from newspapers that are distributed for free.

We also estimate that the exemption reduced local government revenue by $1.7 million in Calendar Year 2017. To estimate this amount, we used the same revenue estimate arrived at for calculating the state revenue impact ($91.4 million), but applied the average population-weighted local sales tax rate, excluding home rule jurisdictions with self-collected sales taxes, of 1.8 percent.

It is important to note that unlike the Newsprint & Printer's Ink Exemption, the revenue impact of the Newspapers Exemption does not appear likely to decline over time, despite the decrease in print circulation. Specifically, the Pew Research Center report indicates that when digital sales are included, the total circulation revenue of newspapers has been increasing moderately in recent years (7 percent between 2012 and 2017). However, according to the report, advertising revenue, which is not subject to sales tax, has decreased significantly during that period, which appears to be a key contributor to the financial issues faced by newspaper publishers in recent years.

## WHAT IMPACT WOULD ELIMINATING THE TAX EXPENDITURES HAVE ON BENEFICIARIES?

The elimination of these exemptions would increase costs for newspaper publishers and/or readers since one or both of the groups would need to pay the increased tax cost for newspapers. Specifically, we estimate that by including both state and local sales taxes, eliminating the Newsprint & Printer's Ink Exemption would increase the cost of producing a newspaper and eliminating the Newspapers Exemption would increase the cost of purchasing a newspaper by about 4.7 percent, including state and local taxes. Newspapers could either pay the additional tax on newsprint and printer's ink without increasing retail newspaper prices or pass it on to customers in the form of higher prices. Similarly, newspaper publishers could respond to a sales and use tax on newspapers by making no adjustment to their prices, meaning customers would pay the cost of the additional tax, or by lowering prices to compensate for the sales tax.

If the increased cost is absorbed by newspapers, then the newspaper would need to offset that cost by decreasing its other expenses. The stakeholders that we interviewed, primarily newspaper publishers, emphasized that they would have difficulty with any additional expenses, especially those that are outside of their control. Many stated that the imposition of a sales and use tax on newspapers could result in their newspaper, or other newspapers, experiencing continued declines in revenue, layoffs, or closure due to small profit margins. This is consistent with data compiled by Dun & Bradstreet, a business data and analytics company, on the newspaper industry, which indicates that newspapers' net income is typically 3 to 3.4 percent of their net sales depending on the size of the company. Furthermore, between 2015 and

2017, print circulation fell by just over 13 percent in Colorado and the number of reporters and correspondents decreased by about 15 percent. This suggests that some newspapers are already having difficulty generating enough revenue to remain financially viable, and would likely have difficulty absorbing additional sales tax costs. As a result, they would need to pass at least some of the costs on to customers.

However, some newspaper customers may be sensitive to increases in price and may purchase fewer newspapers if prices increased. For example, according to one stakeholder we interviewed who represents three newspapers circulated in low income communities, many residents in those communities might no longer be able to afford to purchase a subscription to the newspaper if the price increased to reflect additional taxes. Some of these communities are in remote areas of the state that do not have internet access, and the residents rely on their local printed newspaper to stay informed.

## ARE THERE SIMILAR TAX EXPENDITURES IN OTHER STATES?

Of the 44 other states that impose a retail sales or similar tax, all but one (Hawaii), provides an exemption for newsprint and printer's ink, either by exempting them specifically or because they are considered to be component parts of a manufactured product, which are also typically exempt from sales tax.

In addition, of these 44 states, 28 generally exempt newspapers from sales and use tax. Eight additional states exempt newspapers in certain circumstances, such as only subscription sales, only street vendor and rack sales, or only newspapers distributed free of charge. Eight states and the District of Columbia generally impose a sales and use tax on newspapers.

## ARE THERE OTHER TAX EXPENDITURES OR PROGRAMS WITH A SIMILAR PURPOSE AVAILABLE IN THE STATE?

We did not identify any other tax expenditures or programs with a similar purpose.

## WHAT DATA CONSTRAINTS IMPACTED OUR ABILITY TO EVALUATE THE EXPENDITURES?

We were unable to obtain data on the revenue impact of the sale of newsprint, printer's ink, or newspapers from the Department of Revenue due to limitations in how it collects data and the sales tax licensing requirements for newspapers. Specifically, retailers and wholesalers that sell newsprint, printer's ink, and newspapers subtract the exempt sales from their net sales on the Colorado Retail Sales Tax Return (Form DR 0100). These exemptions are typically reported on the "other exemptions" line on the form, which aggregates several exemptions that do not have specific reporting lines. To collect the data needed to calculate a more accurate estimate of the newspapers, newsprint, and printer's ink sales in Colorado, the Department of Revenue would need to add a separate reporting line to the Retail Sales Tax Return (Form DR 0100) and capture the data on that line for later extraction, which would require staff time and resources to create the form and program GenTax, the Department of Revenue's tax processing system, to capture the information (see the Tax Expenditures Overview section of this Compilation Report for details on the limitations of Department of Revenue data and the potential cost of addressing them).

In addition, newspaper publishers that do not sell other products are exempt from retail sales tax reporting requirements altogether, and therefore, are not required to report newspaper sales and distributions of free newspapers to the Department of Revenue, nor are they required to report the amount of the Newspaper Exemption they applied to customer purchases. Thus, to collect sales and use tax information on newspapers, the Department of Revenue would need to modify its licensing regulations to require all newspapers to obtain retail licenses. This would increase administrative costs for both the newspapers who would need to comply with licensing and reporting requirements, and for the Department of Revenue to change its regulations and ensure compliance for these new retailers.

## WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

The General Assembly could consider clarifying the definition of "newspapers" included in the Newspapers Exemption. As discussed above, statute [Section 39-26-102(15), C.R.S.] provides that the exemption applies to all "legal newspapers as defined by Section 24-70-102, C.R.S." However, Section 24-70-102, C.R.S., does not explicitly define the term "newspaper," and instead defines the frequency of newspaper publication (e.g., "daily," "weekly") and the requirements for newspapers to serve as a "legal publication." In addition, the newspaper industry has changed substantially in recent years due to the newspaper format evolving to allow distribution to tablets, smartphone applications, PDF replicas and restricted websites, and the growth of digital only news platforms that may meet the definition of newspaper. Further, beginning in 2015, all legal notices required to be published in a newspaper are also required to be published on a statewide website dedicated to public notices that is maintained by a majority of Colorado newspapers. However, statute does not directly state that digital newspapers or other electronic news sources are also exempt from sales and use tax. Although in private letter rulings the Department of Revenue has considered digital newspapers to be included in the Newspapers Exemption, such rulings only apply to the specific taxpayer who requested them, and do not provide guidance on how the Department of Revenue would apply the law to the broader range of publications that could be considered newspapers. It is also unclear whether the federal Internet Tax Freedom Act [47 USC 151 note] would allow the State to tax digital newspapers at a higher rate than hardcopy newspapers. Clarifying the definition could help the newspaper industry better understand whether it needs to collect sales tax.