



March 26, 2009

By U.S. Mail and Electronic Mail

The Honorable Eileen M. Daily
The Honorable Cameron C. Staples
Co-Chairs
Joint Committee on Finance, Revenue & Bonding
Room 3700, Legislative Office Building
Hartford, CT 06106

RE: H.B. No. 6349, An Act Concerning the Sales Tax on Services

Dear Chairmen Daily and Staples and Members of the Finance Committee:

The Securities Industry and Financial Markets Association (SIFMA)¹ is writing to express its serious concerns with H.B. No. 6349 as currently drafted. While we appreciate the state's need to identify additional revenue options, we believe that a tax on investment counseling and broker dealer services would serve only to drive substantial business from the state. In addition, such a tax discourages people from seeking much needed financial advice in these volatile times, creates a disincentive to investing and saving for retirement, and is counter to public policy.

I. Investors will avoid the tax by having their investment counseling and broker dealer services performed out-of-state.

Unlike some other professional services, investment counseling and broker dealer services can easily be performed outside the state. Connecticut investors are not a captive audience. They are not required to use an in-state investment advisor or registered representative. They can pick up the phone, log on to the Internet, send a fax, or get in the car and drive to a neighboring state.

A service tax on investment counseling and broker dealer services would make Connecticut firms substantially less competitive with their out-of-state counterparts. In-state clients and prospective clients would have a strong financial incentive to take their business elsewhere.

¹ The Securities Industry and Financial Markets Association brings together the shared interests of more than 600 securities firms, banks and asset managers. SIFMA's mission is to promote policies and practices that work to expand and perfect markets, foster the development of new products and services and create efficiencies for member firms, while preserving and enhancing the public's trust and confidence in the markets and the industry. SIFMA works to represent its members' interests locally and globally. It has offices in New York, Washington D.C., and London and its associated firm, the Asia Securities Industry and Financial Markets Association, is based in Hong Kong.

Out-of-state clients and prospective clients would have virtually no incentive to continue doing business in the state.

A service tax on investment counseling and broker dealer services would create substantial problems for Connecticut financial professionals and would likely do so without generating the revenue sought by the state. Simply put, Connecticut doesn't generate additional tax revenue if in-state residents take their business elsewhere.

II. Some investors are likely to shun professional advice.

Setting financial goals and creating a balanced portfolio to achieve those goals are critical to obtaining financial security. This is particularly true given both the current economic environment and the fact that personal savings, earnings, and employee 401k contributions are increasingly relied upon to maintain a reasonable standard of living in retirement.

Many Connecticut residents wisely turn to financial professionals to guide them through the process. It is in Connecticut's interest to encourage its citizens to invest for the future and to use all reasonable tools to invest wisely. A tax on brokerage services and investment counseling would create a disincentive to the use of these valuable services. Such a tax would likely cause some investors to shun professional advice and "go it alone." The "I can save a few bucks by doing it myself" mentality is particularly troubling during periods of market volatility.

III. A tax on investment counseling and brokerage services creates a disincentive to investing and saving for retirement and is counter to public policy.

It is frequently reported that Americans are not saving enough – for retirement, for their children's college educations or for an unforeseen change in circumstance. Even those that saved faithfully now need to save even more to make up for the staggering economic downturn over the last eighteen months. At a time when the national savings rate is low and costs of retirement are growing, SIFMA believes that efforts should be made to make financial planning and saving more attractive, not less. SIFMA urges the Connecticut legislature not to throw additional obstacles in a well-intentioned investor's path. Taxing investment and brokerage fees further marginalizes the investor's rate of return. At some point, a reduced rate of return discourages existing investors from making new investments and new investors from investing at all.

In addition, a tax on investment counseling and brokerage services is counter to sound existing public policy. Pension plans, individual retirement accounts and other plans were enacted as a matter of public policy to defer the tax on retirement savings. A sales tax would be a direct tax on retirement plans and would be contrary to a policy of tax deferral.

IV. Other states have considered and ultimately rejected a professional service tax.

SIFMA would encourage Connecticut to look at other states' experiences before moving forward on any professional services tax. Massachusetts and Florida are often cited as

examples. In 1990, then Massachusetts Governor Michael Dukakis signed into law a 5% services tax to help close a substantial budget gap. The tax was to be effective on December 1, 1990, but was delayed until March 6, 1991 at the request of then Governor-Elect William Weld. The tax was in effect for one day before being repealed by the Democratic legislature and signed by the new Republican governor.

In Florida in 1986, the legislature quickly passed a tax on services proposed by then Governor Bob Martinez. The bill took effect on July 1, 1987. Substantial opposition to the tax - as evidenced by petitions calling for a constitutional ban on service taxes, numerous commercials opposing the tax, and public opinion polls - resulted in two special sessions being called and the tax being repealed in December of 1987.

In more recent years, a number of states – including Minnesota, Michigan, Kentucky, Tennessee, Arkansas, and Kansas - briefly considered and rejected a professional services tax. Part of the opposition stems from concern over the logistical nightmares a professional services tax might create, particularly in a portable business such as investment counseling and brokerage services. For example, is the tax imposed regardless of whether the consumer is physically present in the state? What, for example, happens if a Connecticut resident walks into a branch office while on business in Illinois? What if he or she e-mails or calls his or her home state broker while out of state? What if the transaction is performed via the Internet while the Connecticut resident is at home? Would a non-resident seeking to do business in the state be subject to the tax? How would the tax be collected? A service tax raises numerous questions but provides few answers.

Conclusion

A tax on investment counseling and brokerage fees is in no one's interest. It sends business out of state, discourages people from seeking valuable investment advice, creates a disincentive to investing and saving, and has been rejected as a revenue generator in other states. SIFMA would encourage you to seek additional funding from alternative sources.

Please feel free to contact me (212-313-1311) or my counsel Pat McCabe (860-293-2591) if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kim Chamberlain". The signature is fluid and cursive, with the first name "Kim" and last name "Chamberlain" clearly legible.

Kim Chamberlain
Managing Director & Counsel
State Government Affairs