



State Bar of Georgia

November 5, 2010

Mr. A.D. Frazier, Chairman
Special Council on Tax Reform and Fairness for Georgians
c/o Donna Moore, Project Manager
2930 Briarglen Drive
Atlanta, GA 30340

Dear Mr. Frazier:

On behalf of the 42,000 members of the State Bar of Georgia, I am writing to thank you for your service to the people of Georgia in your capacity as Chairman of the Special Council on Tax Reform and Fairness for Georgians and wish you well in the task of conducting a thorough study of the state's current revenue structure and reporting your findings and recommendations to the General Assembly.

To assist you in this effort, I am enclosing a document which outlines the concerns of the Board of Governors of the State Bar of Georgia regarding the likely consequences of the potential imposition of a new tax on legal services. We ask you to give these concerns serious consideration should such a tax be recommended during the Council's deliberations.

Please contact me if you have any questions or need any further information.

Sincerely,

A handwritten signature in cursive script, reading "S. Lester Tate III".

S. Lester Tate III
President



State Bar of Georgia

The State Bar of Georgia has the following concerns about the taxing of legal services:

1. Taxing legal services would, in many cases, result in taxing citizens during times of greatest difficulty: death, divorce, bankruptcy, etc., when procurement of legal services is of necessity, not of choice.
2. This proposal would tax citizens who are taking responsible actions in their lives and personal affairs: preparing wills, appointing guardians or buying or selling homes.
3. This tax would be applied to some transactions that are already taxed, such as estate administration and real estate transfers.
4. The burden of this new tax would be borne primarily by small businesses and individuals who are least able to afford a tax increase on basic, essential services in the current economic climate. Large corporations can avert the tax by using out-of-state attorneys and/or hiring in-house counsel.
5. Business and corporations would have legal services performed outside the state to avoid the tax. This would cost jobs in the legal profession and legal support services, impede growth of Georgia as domicile for domestic corporations and adversely affect commercial real estate and other associated activities.
6. As the business sector has testified, taxing legal services for businesses and corporations is like taxing energy in the manufacturing process. The cost must be added to the cost of the final product and passed on to the consumer. It would be an "input" tax.
7. Massachusetts and Florida approved a sales tax on services a number of years ago and both repealed it very soon after implementation. They found service taxes to be very unpopular and very difficult to administer.
8. This tax increase could further strain judicial branch resources as more serious problems evolve from the lack of legal counsel in the early stages of transactions and other civil and criminal cases.
9. Administration of the tax would be difficult. a) When would taxes be collected? b) Attorneys would have to create new procedures for billing and reporting. c) How do you protect client privacy/confidentiality under a Revenue Department audit?
10. Constitutional issues are also apparent. a) Does this increased cost/tax limit a citizen's access to the courts? b) Can you tax legal defense services in a criminal case? c) Is it constitutional to tax some professional services but not others?