

By Representatives Kosmas and Starks

1 A bill to be entitled
 2 An act relating to intangible personal property
 3 taxes; creating s. 199.105, F.S.; providing for
 4 taxation of certain intangible personal
 5 property transferred to a person or entity
 6 outside the state and then repurchased to avoid
 7 taxation; providing that a grantor shall be
 8 treated as owning property that constitutes
 9 trust principal under certain conditions;
 10 amending s. 199.185, F.S.; increasing the
 11 exemption from the first mill of the annual tax
 12 granted to natural persons; creating s.
 13 199.205, F.S.; directing the Department of
 14 Revenue to establish a form that provides
 15 notice of annual intangible tax requirements to
 16 persons establishing residence in this state
 17 through application for vehicle registration,
 18 driver's license, or homestead exemption;
 19 providing an effective date.

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 21 Be It Enacted by the Legislature of the State of Florida:

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 23 Section 1. Section 199.105, Florida Statutes, is
 24 created to read:

25 199.105 Anti-avoidance provision.--

26 (1) Any taxpayer who within 30 days prior to December
 27 31 of any year sells, transfers, or conveys any taxable
 28 intangible personal property to any person or entity outside
 29 the state, and within 30 days after the following January 1
 30 repurchases or receives the same or identical property, shall
 31 be taxed with regard to such property as if the transaction

1 had not taken place. Such a transfer shall be prima facie
2 evidence of intent to evade taxation, and the burden of
3 proving the existence of a bona fide investment or business
4 purpose, other than the avoidance of taxes, for such
5 transaction shall be upon the taxpayer.

6 (2) If, by the terms or the operation of any trust,
7 any property that constitutes trust principal may revert to
8 the grantor of the trust or the grantor's estate during the
9 existence or upon termination of the trust, the grantor shall
10 be treated as owning the property.

11 (3) The department is authorized to adopt necessary
12 rules to carry out the intent of this section.

13 Section 2. Paragraph (a) of subsection (2) of section
14 199.185, Florida Statutes, 1996 Supplement, is amended to
15 read:

16 199.185 Property exempted from annual and nonrecurring
17 taxes.--

18 (2)(a) With respect to the first mill of the annual
19 tax, every natural person is entitled each year to an
20 exemption of the first ~~\$40,000~~ ~~\$20,000~~ of the value of
21 property otherwise subject to said tax. A husband and wife
22 filing jointly shall have an exemption of ~~\$80,000~~ ~~\$40,000~~.

23
24 Agents and fiduciaries, other than guardians and custodians
25 under a gifts-to-minors act, filing as such may not claim this
26 exemption on behalf of their principals or beneficiaries;
27 however, if the principal or beneficiary returns the property
28 held by the agent or fiduciary and is a natural person, the
29 principal or beneficiary may claim the exemption. No taxpayer
30 shall be entitled to more than one exemption under paragraph
31 (a) and one exemption under paragraph (b). This exemption

1 shall not apply to that intangible personal property described
2 in s. 199.023(1)(d).

3 Section 3. Section 199.205, Florida Statutes, is
4 created to read:

5 199.205 Notification of annual intangible tax
6 requirements.--The department shall establish by rule a form
7 that explains the requirements for payment of the annual
8 intangible personal property tax under this chapter by persons
9 holding intangible personal property, and the amount of
10 personal exemptions from the tax as provided in s. 199.185.
11 This form shall be distributed to any person who is
12 establishing residence in this state through application for
13 vehicle registration under chapter 320, application for a
14 driver's license under chapter 322, or application for
15 homestead exemption under chapter 196. The department shall
16 provide these forms to all agencies responsible for accepting
17 such applications, for distribution by those agencies.

18 Section 4. This act shall take effect July 1, 1997.

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21 HOUSE SUMMARY

22 Provides for taxation of certain intangible personal
23 property transferred to a person or entity outside the
24 state and then repurchased to avoid taxation, and
25 provides that a grantor shall be treated as owning
property that constitutes trust principal under certain
conditions.

26 Increases the exemption from the first mill of the annual
27 intangible personal property tax granted to natural
28 persons to \$40,000 for individuals and \$80,000 for
husband and wife filing jointly.

29 Directs the Department of Revenue to establish a form
30 that provides notice of annual intangible tax
31 requirements to persons establishing residence in this
state through application for vehicle registration,
driver's license, or homestead exemption.