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HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: HB 677

RELATING TO: Intangible Personal Property Tax

SPONSOR(S): Representative Starks

STATUTE(S) AFFECTED: Chapter 199, F.S.

COMPANION BILL(S): SB 500 (identical)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE
(2) FINANCE AND TAXATION
(3) GENERAL GOVERNMENT APPROPRIATIONS
(4)
(5)

I. SUMMARY:

Chapter 199, F.S., authorizes the levy of a tax on intangible personal property such as stocks, bonds, mortgages, leases, notes, and liens. Article VII, section 2 of the Florida Constitution, limits the tax rate that can be levied on this property to 2 mills. Taxes collected pursuant to Chapter 199, F.S., are disbursed as follows: (1) taxes on government leaseholds are disbursed to the school board for the county in which the property is situated; (2) all other taxes are disbursed to the General Revenue Fund (66.5%) and to counties (33.5%). Total collections for fiscal year 1997/98 are estimated to be approximately $1 billion.

This bill amends the Florida Intangibles Tax as follows:

- Creates an exemption from intangible tax for accounts receivable.
- Increases the amount of exemption each natural person currently receives.
- Increases the amount of exemption married couples currently receive for filing a joint return.
- Creates an exemption for every taxpayer that is not a natural person.
- Creates an exemption over and above all other exemptions.
- Repeals the intangible tax effective January 1, 2002.

The Revenue Estimating Conference has not reviewed this bill yet. The bill will reduce total collections by an indeterminate amount in fiscal years 1997/98 through 2000/01, and ultimately repeals the tax on January 1, 2002. To the extent the bill induces the creation of new businesses and jobs in Florida, the bill may also have a positive impact on state and local revenues.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Intangible Personal Property Tax Act was enacted in 1971. The Act permits the levy of annual and nonrecurring taxes on intangible personal property. Intangible personal property is defined as "all personal property which is not in itself intrinsically valuable, but which derives its chief value from that which it represents..." See 199.023, F.S. With the exception of certain intangible personal property, the annual intangible personal property tax ("annual intangibles tax") is imposed at the rate of 2 mills of each dollar of the value of the intangible personal property. See s. 199.032, F.S. A one-time nonrecurring intangible personal property tax ("nonrecurring intangibles tax") is imposed at a rate of 2 mills of the value of each note, bond, or other obligation for payment of money secured by mortgage, deed of trust, or other lien upon real property. See s. 199.133, F.S.

Currently, there are nine categories of intangible personal property exempted from the annual and nonrecurring intangibles taxes: 1) money, 2) franchises, 3) partnership firm interest, 4) local, state, and United States issued notes, bonds, and other obligations, 5) intangible personal property held in trust pursuant to a pension, IRA or profit-sharing plan qualified under s. 401 or 408 of the United States Internal Revenue Code ("IRC"), 6) secured notes and other obligations, 7) investment company assets, 8) personal property issued in an international banking transaction, and 9) exempted assets of a unit investment trust. See s. 199.185(1), F.S.

A two-part partial exemption from the annual intangibles tax is statutorily provided in the amount of $20,000 per each natural person or $40,000 per married couple filing jointly, of the property value applicable to the first mill of the intangible tax. See s. 199.185(2), F.S. The law also grants an exemption in the amount $100,000 per each natural person, or $200,000 per married couple filing jointly, of the property value applicable to the second mill of the annual intangibles tax. Pursuant to s. 2, Article VII, of the Florida Constitution, the tax rate for annual and nonrecurring intangibles taxes cannot exceed 2 mills.

Taxpayers that are not natural persons such as the state or any of its political subdivisions or municipalities and nonprofit religious, education and charitable institutions enjoy an exemption from the annual and nonrecurring intangibles taxes on their intangible personal property. See s. 199.183, F.S. Other taxpayers that are not natural persons such as charitable trusts, and bank and savings associations enjoy a partial exemption from the annual intangibles tax. See ss. 199.185(4) and 199.185(5), F.S., respectively. Banks may also receive a credit against the annual intangibles tax equal to 33% of the tax imposed and paid. See s. 199.104, F.S.

With the exception of certain accounts receivable, current statutory provisions provide for the annual taxation, as intangible personal property, accounts receivable that are owned, managed, or controlled by persons domiciled in this State, or arise out of business conducted in this state by persons claiming a domicile in another state. See ss. 199.175(1)-(2), F.S. Accounts receivable are debts owed by another which are not supported by negotiable instruments.

Collections of intangibles taxes are distributed as follows:

1. Thirty-three and five tenths percent (33.5%) shared with counties through the Revenue Sharing Trust fund for counties.

2. Sixty-six and five tenths percent (66.5%) to the General Revenue Fund.

3. Taxes on government leaseholds are disbursed to the school board for the county in which the property is situated.

B. EFFECT OF PROPOSED CHANGES:

The bill creates an exemption from the annual and nonrecurring intangibles taxes for accounts receivable owned by a taxpayer. The exemption is phased-in over a four-year period as follows:

- One-fifth of the accounts receivable owned by a taxpayer on January 1, 1998 will be exempt from the intangibles taxes,
- Two-fifths of the accounts receivable owned by a taxpayer on January 1, 1999 will be exempt from the intangibles taxes,
- Three-fifths of the accounts receivable owned by a taxpayer on January 1, 2000 will be exempt from the intangibles taxes, and
- Four-fifths of the accounts receivable owned by a taxpayer on January 1, 2001 will be exempt from the intangibles taxes.

The bill increases the annual intangibles tax exemption for a natural person on the value of taxable intangible personal property. The increase is phased in over a four-year period as follows:

- The first $50,000 of the value of property otherwise subject to the tax on January 1, 1998,
- The first $100,000 of the value of property otherwise subject to the tax on January 1, 1999,
- The first $150,000 of the value of property otherwise subject to the tax on January 1, 2000, and
- The first $200,000 of the value of property otherwise subject to the tax on January 1, 2001.

The bill increases the annual intangibles tax exemption for married couples filing jointly. The increase is phased in over a four-year period as follows:

- The first $100,000 of the value of property otherwise subject to the tax on January 1, 1998,
- The first $200,000 of the value of property otherwise subject to the tax on January 1, 1999,

- The first $300,000 of the value of property otherwise subject to the tax on January 1, 2000, and

- The first $400,000 of the value of property otherwise subject to the tax on January 1, 2001.

The bill creates an exemption for taxpayers that are not natural persons. The exemption is phased in over a four-year period as follows:

- The first $100,000 of the value of property otherwise subject to the tax on January 1, 1998,

- The first $200,000 of the value of property otherwise subject to the tax on January 1, 1999,

- The first $300,000 of the value of property otherwise subject to the tax on January 1, 2000, and

- The first $400,000 of the value of property otherwise subject to the tax on January 1, 2001.

The bill also creates an exemption over and above all other exemptions. The exemption is phased in over a four-year period as follows:

- The first $100,000 of the value of the property subject to the tax is exempt on January 1, 1998,

- The first $200,000 of the value of the property subject to the tax is exempt on January 1, 1999,

- The first $300,000 of the value of property subject to the tax is exempt on January 1, 2000, and

- The first $400,000 of the value of property subject to the tax is exempt on January 1, 2001.

Finally, the bill repeals the intangible tax on January 1, 2002.

C. APPLICATION OF PRINCIPLES:

1. <u>Less Government:</u>

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

None.

(2) what is the cost of such responsibility at the new level/agency?

None.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

Yes, the bill creates a number of phased in exemptions for the Florida Intangibles Tax, and ultimately repeals the tax on January 1, 2002. The Revenue Estimating Conference has not determined the fiscal impact of this bill yet.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. <u>Personal Responsibility:</u>

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Not applicable.

4. <u>Individual Freedom:</u>

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. <u>Family Empowerment:</u>

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

Not applicable.

(2) Who makes the decisions?

Not applicable.

(3) Are private alternatives permitted?

Not applicable.

(4) Are families required to participate in a program?

Not applicable.

(5) Are families penalized for not participating in a program?

Not applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides for a staged exemption from intangible tax for accounts receivable. Provides a staged increase in the exemption for each natural person. Provides an exemption for every taxpayer that is not a natural person. Provides that a married couple filing a joint return would be entitled to an exemption.

Section 2. Grants over and above all other exemptions, an exemption of the first $100,00 of value for property subject to tax on January 1, 1998; the first $200,000 of value on January 1, 1999; the first $300,000 of value on January 1, 2000; and the first $400,000 of value on January 1, 2001.

Section 3. Repeals the intangible tax effective January 1, 2002.

Section 4. Grants specific authority to Department of Revenue to take any action to collect any intangible tax that was due under the provisions of Chapter 199, F.S. prior to the repeal of the tax.

Section 5. Provides that the act shall take effect, except where expressly stated otherwise, on January 1, 1998.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

THE REVENUE ESTIMATING CONFERENCE HAS NOT REVIEWED THIS BILL YET.

The Department of Revenue will incur costs associated with administering the exemptions authorized in this bill.

2. Recurring Effects:

The bill will reduce total collections by an indeterminate amount in fiscal years 1997/98 through 2000/01, and ultimately repeals the tax on January 1, 2002. To the extent the bill induces the creation of new businesses and jobs in Florida, the bill may also have a positive impact on state revenues.

3. Long Run Effects Other Than Normal Growth:

Indeterminate at this time.

4. Total Revenues and Expenditures:

See A1. and A2. above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

The increased exemptions and ultimate repeal of the intangibles tax will have a negative impact on the amount of the collections received by local school boards, and the amount shared with counties. To the extent the bill induces the creation of new businesses and jobs in Florida, the bill may also have a positive impact on local revenues.

3. Long Run Effects Other Than Normal Growth:

   Indeterminate at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   None.

2. Direct Private Sector Benefits:

   Individuals and entities currently paying the Florida Intangibles Tax will receive a number of exemptions from the tax and ultimately will not have to pay the tax at all.

3. Effects on Competition, Private Enterprise and Employment Markets:

   To the extent the bill induces the creation of new businesses and jobs, the bill may have a positive impact on these markets.

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require municipalities or counties to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This legislation does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

Since this legislation ultimately repeals the Florida Intangibles Tax on January 1, 2002, the bill eliminates a shared tax that counties receive. If the overall impact of this bill is in excess of ($1.4) million, the bill may constitute a mandate pursuant to the provisions of Article VII, Section 18(b), Florida Constitution.

V. COMMENTS:

The Department of Revenue has commented that while repealing the intangible tax statute, the bill does not amend or repeal any of the other sections of the statutes that reference provisions of Chapter 199, F.S. For example, s. 220.68, F.S., grants banks a credit against the corporate income tax for the intangible tax paid or 65% of the tax due with the return. Chapter 201, F.S., utilizes the definition of international banking transactions as defined in Chapter 199, F.S. Once Chapter 199, F.S., is repealed, Chapter 201, F.S., will have no definition for international banking transactions.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE:

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