

By Senator Sebesta

314-946-99

1 A bill to be entitled
 2 An act relating to penalties for delinquent
 3 taxes; amending s. 199.282, F.S.; reducing
 4 penalties imposed for delinquent intangible
 5 personal property taxes; amending s. 201.17,
 6 F.S.; reducing penalties imposed for delinquent
 7 documentary stamp taxes; amending s. 212.12,
 8 F.S.; reducing penalties for delinquent sales
 9 and use taxes; amending s. 220.21, F.S.;
 10 reducing penalties for incomplete corporate
 11 income tax returns; providing an effective
 12 date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Subsections (3) and (4) of section 199.282,
 17 Florida Statutes, 1998 Supplement, are amended to read:

18 199.282 Penalties for violation of this chapter.--

19 (3)(a) If any annual or nonrecurring tax is not paid
 20 by the due date, a delinquency penalty shall be charged. The
 21 delinquency penalty shall be 5 ~~10~~ percent of the delinquent
 22 tax for each calendar month or portion thereof from the due
 23 date until paid, up to a limit of 25 ~~50~~ percent of the total
 24 tax not timely paid.

25 (b) If any annual tax return required by this chapter
 26 is not filed by the due date, a penalty of 5 ~~10~~ percent of the
 27 tax due with the return shall be charged for each calendar
 28 month or portion thereof during which the return remains
 29 unfiled, up to a limit of 25 ~~50~~ percent of the total tax due.

30
 31

1 For any penalty assessed under this subsection, the combined
2 total for all penalties assessed under paragraphs (a) and (b)
3 shall not exceed 5 ~~10~~ percent per calendar month, up to a
4 limit of 25 ~~50~~ percent of the total tax due.

5 (4) If an annual tax return is filed and property is
6 either omitted from it or undervalued, then a specific penalty
7 shall be charged. The specific penalty shall be 5 ~~10~~ percent
8 of the tax attributable to each omitted item or to each
9 undervaluation. No delinquency or late filing penalty shall be
10 charged with respect to any undervaluation.

11 Section 2. Subsection (2) of section 201.17, Florida
12 Statutes, is amended to read:

13 201.17 Penalties for failure to pay tax required.--

14 (2) If any document, instrument, or paper upon which
15 the tax under this chapter is imposed, upon audit or at time
16 of recordation, does not show the proper amount of tax paid,
17 or if the tax imposed by this chapter on any document,
18 instrument, or paper is not timely reported and paid as
19 required by s. 201.133, the person or persons liable for the
20 tax upon the document, instrument, or paper shall be subject
21 to:

22 (a) Payment of the tax not paid.

23 (b) A specific penalty added to the tax in the amount
24 of 5 ~~10~~ percent per month or part of a month of any unpaid tax
25 ~~if the failure is for not more than 30 days, with an~~
26 ~~additional 10 percent of any unpaid tax for each additional 30~~
27 ~~days, or fraction thereof, during the time~~ which the failure
28 continues, not to exceed a total penalty of 25 ~~50~~ percent, in
29 the aggregate, of any unpaid tax. In no event shall the
30 penalty be less than \$10 for failure to timely file a tax
31 return required. If it is determined by clear and convincing

1 evidence that any part of a deficiency is due to fraud, there
2 shall be added to the tax as a civil penalty, in lieu of the
3 aforementioned penalty under this paragraph, an amount equal
4 to 200 percent of the deficiency. These penalties are to be
5 in addition to, and not in lieu of, any other penalties
6 imposed by law.

7 (c) Payment of interest to the Department of Revenue,
8 accruing from the date the tax is due until paid, at the rate
9 of 1 percent per month, based on the amount of tax not paid.

10 Section 3. Paragraphs (a) and (b) of subsection (2) of
11 section 212.12, Florida Statutes, 1998 Supplement, are amended
12 to read:

13 212.12 Dealer's credit for collecting tax; penalties
14 for noncompliance; powers of Department of Revenue in dealing
15 with delinquents; brackets applicable to taxable transactions;
16 records required.--

17 (2)(a) When any person, firm, or corporation required
18 hereunder to make any return or to pay any tax or fee imposed
19 by this chapter fails to timely file such return or fails to
20 pay the tax or fee due within the time required hereunder, in
21 addition to all other penalties provided herein and by the
22 laws of this state in respect to such taxes or fees, a
23 specific penalty shall be added to the tax or fee in the
24 amount of 5 ~~10~~ percent per month or part of a month of any
25 unpaid tax or fee ~~if the failure is for not more than 30 days,~~
26 ~~with an additional 10 percent of any unpaid tax or fee for~~
27 ~~each additional 30 days, or fraction thereof,~~ during the time
28 which the failure continues, not to exceed a total penalty of
29 25 ~~50~~ percent, in the aggregate, of any unpaid tax or fee. ~~In~~
30 ~~no event may~~ The penalty may not be less than \$10 for failure
31 to timely file a tax return required by s. 212.11(1)(b) or \$5

1 for failure to timely file a tax return authorized by s.
2 212.11(1)(c) or (d). In the case of a false or fraudulent
3 return or a willful intent to evade payment of any tax or fee
4 imposed under this chapter, in addition to the other penalties
5 provided by law, the person making such false or fraudulent
6 return or willfully attempting to evade the payment of such a
7 tax or fee shall be liable for a specific penalty of 100
8 percent of the tax bill or fee and for fine and punishment as
9 provided by law for a conviction of a misdemeanor of the first
10 degree.

11 (b) When any person, firm, or corporation fails to
12 timely remit the proper estimated payment required under s.
13 212.11, a specific penalty shall be added in an amount equal
14 to 5 ~~10~~ percent of any unpaid estimated tax. Beginning with
15 January 1, 1985, returns, the department, upon a showing of
16 reasonable cause, is authorized to waive or compromise
17 penalties imposed by this paragraph. However, other penalties
18 and interest shall be due and payable if the return on which
19 the estimated payment was due was not timely or properly
20 filed.

21 Section 4. Section 220.211, Florida Statutes, is
22 amended to read:

23 220.211 Penalties; incomplete return.--

24 (1) If ~~In the case where~~ an incomplete return is made,
25 unless notwithstanding that no tax is finally determined to be
26 due for the taxable year, there shall be added to the amount
27 of tax, penalty, and interest otherwise due a penalty in the
28 amount of 5 percent per month, not exceeding an aggregate of
29 \$300 or 10 percent of the tax finally determined to be due,
30 whichever is greater; however, such a penalty must shall not
31 exceed \$10,000, and the taxpayer is exempt from this penalty

1 if a penalty is imposed on him or her under s. 220.801 with
2 respect to the same return. The department may settle or
3 compromise such penalties pursuant to s. 213.21.

4 (2) As used in this code, the term:~~An~~ "incomplete
5 return" means ~~is, for the purposes of this code,~~a return that
6 lacks ~~which is lacking~~ such uniformity, completeness, and
7 arrangement to the extent that physical handling,
8 verification, or review of the return can ~~may~~ not be readily
9 accomplished.

10 Section 5. This act shall take effect July 1, 1999.

11

12 *****

13

SENATE SUMMARY

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

31