

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1232

SPONSOR: Senator Thomas

SUBJECT: Intangible Taxes/Charitable Trusts

DATE: March 31, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fournier</u>	<u>Wood</u>	<u>FR</u>	<u>Favorable</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill would fully exempt charitable trusts from the intangibles tax, if 95 percent of a trust's income is paid to organizations exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 199.185.

II. Present Situation:

Charitable trusts, 95 percent of the income of which is paid to organizations exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code, are exempt from one mill of the intangible personal property tax.

Florida's intangible tax was enacted in 1931 and is a tax on "all personal property which is not in itself intrinsically valuable, but which derives its chief value from that which it represents." s. 199.023, F.S. Taxable intangible personal property includes, among other things, stocks, bonds, notes, other obligations to pay money, and accounts receivable. s. 199.023, F.S. Certain intangible personal property is exempt from the tax. Examples of exempt property include money, franchises, general partnership interests and retirement accounts.

The tax is paid annually and is based on the value of assets as of January 1. s. 199.103, F.S. The return is due by June 30th with discounts for early payment. s. 199.042, F.S. The tax is paid by all "persons" which includes any individual, firm, partnership, joint adventure, syndicate, or other group or combination acting as a unit, association, corporation, estate, trust, business trust, trustee, personal representative, receiver, or other fiduciary unless such persons are exempted from the tax. s. 199.03(3), F.S.

A Florida domiciled trustee is required to pay intangible tax on the assets held in trust since the trustee has management and control of the assets. Florida domiciled beneficiaries also must pay the intangible tax if they own a taxable beneficial interest in a trust. If the trustee has filed a return and paid the tax, the beneficiary is not required to file a return. s. 199.052(5), F.S.

The tax rate is capped at 2 mills by the Florida Constitution, s. 2, Art. VII. The current tax rate is 2 mills (\$2 per \$1,000 of value). s. 199.032, F.S.

III. Effect of Proposed Changes:

This bill would fully exempt charitable trusts from the intangibles tax, if 95 percent of a trust’s income is paid to organizations exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill is exempt from the provisions under subsection (b) of section 18 of Article VII, Florida Constitution, which require a two-thirds vote of the membership of each house in order to enact a general law if the anticipated effect of doing so would be to reduce the percentage of a state tax shared with counties and municipalities as an aggregate on February 1, 1989. Although the expanded exemption from the state intangibles taxes provided by this bill reduces the base of state revenues shared with local government, the bill does not reduce the percentage of the revenues shared with counties and municipalities as an aggregate on February 1, 1989.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Issue/Fund	General Revenue		Trust		Local		Total	
	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring
Reduce Tax on Charitable Trusts	(0.4)	(0.4)	0	0	(0.2)	(0.2)	(0.6)	(0.6)

B. Private Sector Impact:

Charitable trusts will not be subject to any intangibles tax, if they meet statutory criteria regarding disposition of the trust income.

C. Government Sector Impact:

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
