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DATE: April 16, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
FINANCE AND TAXATION
ANALYSIS**

BILL #: HB 561

RELATING TO: Tax on Sales, Use and Other Transactions

SPONSOR(S): Representative Fasano and others

COMPANION BILL(S): SB 700 (c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS YEAS 9 NAYS 0
- (2) FINANCE AND TAXATION YEAS 15 NAYS 0
- (3) GENERAL GOVERNMENT APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

House Bill 561 expands an existing exemption from sales tax on sales or leases to the state headquarters of qualified veterans' organizations and their auxiliaries to include sales and leases to all qualified veterans' organizations and their auxiliaries.

The bill creates a sales and use tax for an exemption for sales and leases to organizations which hold a current exemption from federal income tax pursuant to section 501(c)(3) of the Internal Revenue Code.

The estimated fiscal impact upon General Revenue is (\$21.22) million for FY 99-2000 and (\$24.3) million for FY 2000-2001. There will be a negative, but insignificant impact on the Solid Waste Management Trust Fund for FY 99-2000. The estimated fiscal impact on the Solid Waste Management Trust Fund for FY 2000-2001 is (\$0.1M). The estimated fiscal impact upon local governments is (\$3.3) million for FY 1999-2000 and (\$3.7) for FY2000-2001. The total estimated fiscal impact for this bill is (\$24.6) million for FY 1999-2000 and (\$28.1) million for FY 2000-2001.

The act shall take effect July 1, 1999.

See Amendments or Committee Substitute Changes.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 212, Florida Statutes, establishes taxation and exemptions on the retail sales, storage and use of all tangible personal property in the State of Florida. The rate of taxation in Florida is 6 percent of the sales price of each item or article of tangible personal property when sold at retail, computed on each taxable sale for the purpose of remitting the amount of tax due to the state, and including each and every retail sale. Furthermore, local governments are authorized to levy one or more of six types of Local Discretionary Sales Surtaxes, ranging from up to 0.5 percent to 1.0 percent each.

Currently, section 212.08(7)(o), Florida Statutes, provides a sales and use tax exemption for sales and leases to nonprofit organizations, including religious, charitable, scientific, educational, and veterans' institutions and organizations, when these organizations meet specified criteria. The exemption does not include sales or leases by these nonprofit organizations; except that sales or leases by churches are also exempt from sales and use tax.

Specifically, the exemption provided to veterans' organizations applies only to state headquarters of qualified veterans' organizations and the state headquarters of their auxiliaries when used in providing customary veterans' organization activities. If a qualified veterans' organization or its auxiliary does not maintain a permanent state headquarters, then transactions involving sales or leases to such organizations and used to maintain the highest ranking state official, of the qualified veterans' organization, are exempt from the sales and use taxes.

Section 212.08, F.S., defines a "qualified veterans' organization" as a nationally chartered or recognized veterans' organization, including but not limited to; Florida Chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under section 501(c)(4) or (19) of the Internal Revenue Code.

26 U.S.C. s. 501 (c)(3) provides exemption from federal income taxation for certain groups which are organized exclusively for one or more of the purposes listed below. The exemption is available only if no part of the group's net earnings benefit private parties and only if the group refrains from political activities. The groups covered by the exemption granted in s. 501 (c)(3) of the Internal Revenue Code (IRC) are as follows:

- (1) Religious
- (2) Charitable
- (3) Scientific
- (4) Educational
- (5) Literary
- (6) Testing for public safety
- (7) Groups fostering national or international amateur sports competition (does not include provision of facilities or sports equipment)
- (8) Prevention of cruelty to children or animals.

Presently, Florida exempts many organizations with 501(c)(3) status; however, the entities also must meet additional Florida-specific criteria to qualify for an exemption from sales and use tax on purchases and leases to the entity. Therefore, some organizations may be exempt from federal taxes but not from state taxes. Under section 212.08(7), F.S., the following nonprofit organizations, and transactions by nonprofit organizations, are presently exempt from sales and use tax:

Sale or rental of guide dogs for the blind and the sale of food or other items for such dogs.

Room rentals and meals for patients and inmates of any hospital or other facility operated primarily for the care of persons who are ill, aged, infirm, mentally or physically incapacitated, or otherwise dependent on special care or attention.

Meals provided by certain nonprofit volunteer organizations to handicapped, elderly, or indigent.

501(c)(3) corporations whose primary purpose is to raise money for military museums.

Homes for the aged, nursing homes, or hospices which are nonprofit 501(c)(3) corporations and must qualify under s. 196.1975(2), F.S., or chapter 400, F.S., as applicable.

Organizations providing special educational, cultural, recreational, and social benefits to minors which are incorporated pursuant to chapter 617, F.S., or are 501(c)(3) exempt.

Sales or leases directly to churches and sales or leases of tangible personal property by churches.

Sales or leases to nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational institutions are exempt when used in carrying out their customary activities.

Sales or leases to the state headquarters of qualified veterans' organizations and their auxiliaries are exempt when used in carrying out their customary activities.

A state theater contract organization which is a nonprofit organization incorporated in accordance with ch. 617, designated as a state theater contract organization pursuant to s. 265.289, and is a 501(c)(3).

Purchases by a 501(c)(3) nonprofit corporation operating a cemetery, and is operated for the purpose of maintaining a cemetery that was donated to the community by deed.

A 501(a) and (c)(3) nonprofit organization that is affiliated with the Coast Guard, and whose primary purpose is to promote safe boating.

Certain works of art, including art sold or used by an educational institution.

Sales or leases to organizations incorporated pursuant to ch. 617, which are exempt under 501(c)(3), and sponsor certain sanctioned golf tournaments.

Nonprofit organizations incorporated under ch. 617, or are 501(c)(3)'s, that are designated citizen support organizations in support of state-funded environmental programs or the management of state-owned lands, or to support state parks.

Nonprofit organizations incorporated under ch. 617, which are treated as cooperatives under subchapter T of the IRC, whose sole purpose is to offer laundry supplies and services to their members, and whose members are all 501(c)(3)'s.

B. EFFECT OF PROPOSED CHANGES:

House Bill 561 expands an existing exemption from sales tax on sales or leases to the state headquarters of qualified veterans' organizations and their auxiliaries to include sales and leases to all qualified veterans' organizations and their auxiliaries.

The bill creates a sales and use tax exemption for sales and leases to organizations which hold a current exemption from federal income tax pursuant to section 501(c)(3) of the Internal Revenue Code.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

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

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

N/A

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

N/A

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

N/A

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?

N/A

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

N/A

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

N/A

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.

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. Personal Responsibility:

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?

No.

4. Individual Freedom:

- 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. Family Empowerment:

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

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

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

N/A

- 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?

N/A

- (2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 212.08.

E. SECTION-BY-SECTION ANALYSIS:

SECTION 1: Amends section 212.08 (7)(o), 1998 Supplement, to expand an existing sales and use tax exemption on sales and leases to include all qualified veterans' organizations and their auxiliaries when used in carrying on their customary veteran's organization activities. The bill also creates s. 212.08(7)(zz) which exempts from sales and use tax sales and leases to organizations which hold a current exemption from federal income tax pursuant to section 501(c)(3) of the Internal Revenue Code.

SECTION 2: Provides an effective date of July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

<u>Veterans Organizations</u>	FY 1999-00	FY 2000-01
General Revenue	(\$0.4M)	(\$0.5M)
Trust Fund	(*)	(*)
Local Government	(*)	(*)
 <u>501(c)(3) Organizations</u>	 FY 1999-00	 FY 2000-01
General Revenue	(\$20.8M)	(\$23.8M)
Trust Fund	(*)	(\$0.1)
Local Government:		
Local Govt. Half Cent TF	(\$2.0M)	(\$2.2M)
Local Option Sales	(\$1.3M)	(\$1.5M)

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See III.A.2.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

See III.A.2.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

Qualified veterans' organizations and federally recognized 501(c)(3) organizations will receive sales tax exemptions.

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

N/A

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Although the bill will reduce the authority of municipalities and counties to raise revenues, the impact on local option sales tax is estimated to be no greater than \$1.5 million, and therefore insignificant. The bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

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

While the bill will reduce the amount of the Local Government Half Cent Sales Tax shared with municipalities and counties, it does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(b), Florida Constitution does not apply.

V. COMMENTS:

By the Committee on Community Affairs

The Tri-state chapter of the Paralyzed Veterans of America and the Council of Veterans Organization are supportive of the provisions of the bill relating to providing an exemption from chapter 212, Florida Statutes for all veterans' organizations.

The Department of Revenue is supportive of the provisions of the bill relating to the additional exemption for all 501(c)(3) organizations and maintains this change will reduce continual administrative difficulties with the current exemption structure.

The Florida Association of Counties supports the provisions of the bill relating to providing an exemption from chapter 212, Florida Statutes for all veterans' organizations.

The Florida League of Cities was contacted regarding the bill and did not respond prior to the publication of the analysis.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 16, 1999, the Committee on Finance and Taxation adopted a strike everything amendment that creates sales and use tax exemptions for sales and leases to the following not-for-profit organizations:

- all qualified veterans' organizations and their auxiliaries;
- consumer credit counseling organizations that provides free of charge, or at a substantially reduced cost, consumer credit counseling to a client population which is disadvantaged or suffers a hardship;
- athletic event sponsors that: 1) are incorporated pursuant to chapter 617; 2) hold a current exemption from federal corporate income tax liability pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended; and, 3) are funded primarily by county or municipal governments and have as their primary purpose the encouragement and facilitate of the use of certain locations within Florida as venues for sporting events;
- organizations whose sole or primary function is to raise funds for another organization or organizations currently holding a consumer's certificate of exemption issued by the Department of Revenue;
- not-for-profit corporations which hold a current exemption from federal income tax under s. 501(c)(12) of the Internal Revenue Code, as amended, if the sole or primary function of the corporation is to construct, maintain, or operate a water system in this state; and,
- library cooperatives certified under s. 257.41(2), F.S.

The amendment also:

- creates a sales and use tax exemption for works of art donated to educational institutions;
- expands the sales tax exemption for schools preparing student for jobs in the motion picture industry to include leases of real property to the schools; and,
- creates a sales and use tax exemption for the charge paid for the rental, lease, sublease, or license for the use of a skybox, luxury box, or other box seats for use during a high school or college football game in a high tourism impact county when the charge for such box seats is imposed by a nonprofit sponsoring organization.

The estimated fiscal impact of the bill as amended upon General Revenue is (\$4.7) million for FY 99-2000 and (\$5.1) million for FY 2000-2001. There will be a negative, but insignificant impact on the Solid Waste Management Trust Fund. The estimated fiscal impact upon local governments is (\$0.5) million for FY 1999-2000 and (\$0.5) for FY2000-2001. The total estimated fiscal impact for this bill is (\$5.2) million for FY 1999-2000 and (\$5.6) million for FY

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:
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