

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: CS/SB 1382

SPONSOR: Fiscal Resource Committee and Senator Sebesta

SUBJECT: Tax on Sales, Use, and Other Transactions

DATE: April 24, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Keating</u>	<u>Wood</u>	<u>FR</u>	<u>Favorable/CS</u>
2.	<u>Robinson Pierce</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The committee substitute limits responsibility for collecting and paying sales and use taxes due on printed materials. The committee substitute provides that printers who deliver printed materials by the United States Postal Service to persons other than the purchaser have no obligation or responsibility for the payment or collection of any taxes imposed on the materials. However, the committee substitute specifies that printers are obligated to collect taxes due on the printed materials when all, or substantially all, of the materials will be mailed to persons located within Florida. The purchaser of the printed materials remains responsible for any taxes due on the printed material.

For purposes of the printer's tax collection obligation, there is a rebuttable presumption that all materials printed at a facility are mailed to persons located in the same state in which the facility is located. The printer may rebut this presumption by obtaining a certificate from the purchaser concerning the delivery of the printed materials for a particular purchase or all purchases.

The committee substitute further authorizes the Department of Revenue to adopt rules and prescribe forms to implement the provisions of the act.

The committee substitute substantially amends section 212.06, Florida Statutes.

II. Present Situation:

The intent of ch. 212, F.S., is to levy a tax on the sale at retail, the use¹, the consumption, the distribution, and the storage to be used or consumed in this state of tangible personal property² after it has come to rest in this state and has become a part of the mass property of this state. (s. 212.06(6), F.S.) Section 212.06, F.S., sets forth the general provisions for the determination and collection of the tax on sales, storage, and use tax relating to dealers³. Section 212.06(1)(a), F.S., states that the tax rate is 6 percent of the retail sales price at the moment of sale, 6 percent of the cost price at the moment of purchase, or 6 percent of the cost price as of the moment of commingling with the general mass of property in this state. This section further provides that the tax is collectible from all dealers, as defined in the statute, on the sale at retail, the use, the consumption, the distribution, and the storage for use or consumption in Florida of tangible personal property taxable under ch. 212, F.S.

Rules 12A-1.024 and 12A-1.027, F.A.C., allow the Department of Revenue (DOR) to impose taxes on the printing or imprinting of tangible personal property and on sales to ultimate consumers for the printing of tangible personal property. Under rule 12A-1.027, F.A.C., a “nonresident print purchaser” is an out-of-state purchaser who is not required to be registered with DOR as a dealer under the provisions of s. 212.0596(2), F.S., which relate to taxation of mail order sales, and is purchasing printing of tangible personal property in this state. Sales to nonresident print purchasers for printing of tangible personal property may not be subject to tax under specified conditions. (*See*, R. 12A-1.027, F.A.C.) To illustrate how the department determines the tax to be assessed to a printer, for example, a mail order company engages a printer to print a catalog to be mailed directly to its customers. The mail-order company sends to the printer a diskette providing the mailing list of its customers to be affixed to the catalogs and subsequently mailed to the customers by the printer. The amount of tax due is based on the actual number of catalogs mailed to Florida residents.

III. Effect of Proposed Changes:

The committee substitute amends s. 212.06(3), F.S., to provide an exception to the responsibility of collecting the taxes due on the sale of tangible personal property for distribution, storage, or use or other consumption, in the State of Florida to a dealer. The purchaser of printed materials is to have sole responsibility for the taxes imposed by ch. 212, F.S., on those materials when the printer of the materials delivers them to the United States Postal Service for mailing to persons other than the purchaser, whether the person receiving such materials is located within or outside Florida. However, printers are obligated to collect the taxes imposed by ch. 212, F.S., when all or substantially all of the printed materials will be mailed to persons other than the purchaser and such persons are located in Florida.

¹“Use” is defined in s. 212.06(20), F.S., to mean and include the exercise of any right or power over tangible personal property.

² “Tangible personal property” includes personal property which may be seen, weighed, measured, or touched or is in any manner perceptible to the senses. (s. 212.02(19), F.S.)

³Section 212.06(2), F.S., provides that a “dealer” includes every person who manufactures or produces tangible personal property for sale at retail; for use, consumption, or distribution; or for storage to be used or consumed in Florida.

Issue/Fund	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring
Change in responsibility for paying tax on certain printed materials	(0.3)	(0.3)	(*)	(*)	(*)	(*)	(0.3)	(0.3)

* Insignificant

B. Private Sector Impact:

Printers would no longer be obligated to collect the taxes due for the use and consumption of certain printed materials under specified conditions. Purchasers of printed materials will have the sole responsibility for the taxes imposed for sales, storage, and use.

C. Government Sector Impact:

The Department of Revenue (DOR) indicates that because the general burden of collecting and remitting tax currently placed on the dealer, rather than the customer, will be changed under the committee substitute, enforcement of sales and use tax payments against customers will be difficult. This difficulty of enforcement is because the department experiences a low level of compliance relating to collection of taxes on mail order sales and other out-of-state purchases from customers. Moreover, some customers may be engaged in service businesses and may not be registered with the department.

While not required by law, DOR sends Tax Information Publications (TIPs) to registered businesses to inform the public of various changes in state tax law. To the extent that the department engages in mass publication and distribution of TIPs regarding the change in law under the committee substitute, the department may incur additional costs to send TIPs to specific registered businesses potentially affected by the act.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.