

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 13, 2000 **REVISED:** _____

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

I. Summary:

The Committee Substitute provides language limiting responsibility for paying sales and use taxes due on printed materials by a printer when the materials are delivered to the United States Postal Service for mailing to persons other than the purchaser, located within and outside Florida. Further, the bill provides that the printer of materials delivered by mail to persons other than the purchaser, located within and outside Florida has no obligation or responsibility for the payment or collection of any taxes imposed on the printed materials. However, the language 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 within Florida. Language is included stating that, for the 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 within that same state as that which the facility is located. The purchaser of the printed materials remains responsible for any taxes due on the printed material.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 212.06

II. Present Situation:

Section 212.06, F. S., sets forth the general provisions for the determination and collection of the tax on sales, storage, and use tax. It provides definitions, and legislative intent. 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 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, and shall be collectible from all dealers as herein defined 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 Chapter 212, F.S.

Section 212.06(2), F.S., provides the definition for “dealer” and 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.

Section 212.06(6), F.S., provides that the intent of Chapter 212, F.S., is to levy a tax on the sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in this state of tangible personal property after it has come to rest in this state and has become a part of the mass property of this state. Tangible personal property is defined in s. 212.02(19), F.S., to include personal property which may be seen, weighed, measured, or touched or is in any manner perceptible to the senses. “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.

The Department of Revenue (DOR) in its rule 12A-1.027, Florida Administrative Code, Sales by Persons Engaged in Printing, states that the sale to ultimate consumers for the printing of tangible personal property are taxable. Additionally, this rule states a “nonresident print purchaser” is an out-of-state purchaser who is not required to be registered with the DOR as a dealer. Exemptions to the otherwise taxable sale are also provided.

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., which provides 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 exception provides that the purchaser of printed materials shall have sole responsibility for the taxes imposed by chapter 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, located within and outside Florida. However, printers are obligated to collect the taxes imposed by Chapter 212, F.S., when all or substantially all of the printed materials will be mailed to persons other than the purchaser, located within Florida.

Specifically, the bill adds language stating that, for the purposes of the printer’s tax collection responsibilities, there is a rebuttable presumption that all materials printed at a facility are mailed to persons located within the same state as that in which the facility is located. A certificate provided by the purchaser to the printer concerning the delivery of the printed materials for that purchase or all purchases shall be sufficient for purposes of rebutting the presumption created in the bill.

The bill authorizes the DOR to adopt rules and forms to implement the provisions of the bill.

The bill takes effect July 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill initially falls under subsection (b) of section 18 of Article VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989 to raise revenues in the aggregate. By adding an exemption to the state sales tax, the bill has the effect of adding an exemption to the local option county sales surtax. Since the annual local revenue loss is estimated to be \$1.4 million or less, the bill will be exempt from the requirements of subsection (b) due to the insignificant negative fiscal impact as permitted under subsection (d) of section 18 of Article VII. (See subsection (d) of s. 18, Art. VII, Florida Constitution, for various types of general laws, including those with insignificant fiscal impact.)

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates the fiscal impact of this bill to be a recurring loss to the General Revenue Fund of \$0.3 million.

Issue/Fund	General Revenue		Trust		Local		Total	
	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
 ** Indeterminate

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 certain conditions.

C. Government Sector Impact:

The Department of Revenue will have to incur the cost of issuing a Taxpayer Information Publication (TIP) to be sent to specific registered businesses that would be impacted by this bill.

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.
