

# 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 1648

**SPONSOR:** Fiscal Resource Committee and Senator Kurth

**SUBJECT:** Tax on Sales, Use and Other Transactions

**DATE:** March 29, 2000                      **REVISED:** \_\_\_\_\_

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

**I. Summary:**

The Department of Revenue is required to project sales tax overpayments for the entire period audited when auditing voluminous sales tax records pursuant to statute. The projected overpayment will offset projected underpayments and projected net overpayments are refunded. The bill also provides intent language that this act clarify rather than change existing law.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 212.12

**II. Present Situation:**

The Department of Revenue (DOR) is permitted to statistically sample voluminous sales tax records and project net underpayment of sales tax obligations for the entire period being audited. When overpayments are found by the audit, however, an offset, credit, or refund is given for actual overpayments only. Overpayments are not projected because the DOR lacks specific statutory authority to project sales tax overpayments, therefore, individual substantiation is required for each overpayment.

The Department of Banking and Finance (the Comptroller) does not pre-audit applications for sales tax refund. The Comptroller post-audits some applications for sales tax refund by examining the DOR's records regarding the refund.

**III. Effect of Proposed Changes:**

The bill amends s. 212.12(6)(c)1., F.S., providing that overpayments found by applying the statistical sampling, must be projected over the entire audit period. The tax deficiency derived from the sample must be reduced by overpayments derived by the sample. If the sample results in a tax credit, the DOR is required to provide the findings to the Comptroller for repayment of funds paid into the State Treasury through error pursuant to s. 215.26, F.S.

The bill provides intent language that this act clarify rather than change existing law. In addition, the act shall apply to all tax periods that are still open for assessment or refund when this act takes effect, including tax periods that are the subject of assessment or refund claims that are pending in administrative or judicial proceedings when this act takes effect.

The bill takes effect upon becoming a law.

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Certain taxpayers who have both overpaid and underpaid their sales taxes will have their overpayments offset projected underpayments and projected net overpayments refunded..

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

CS/HB 545 is similar to SB 1648.

**VIII. Amendments:**

None.

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

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