

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 128
SPONSOR: Senator Lee and Senator Cowin
SUBJECT: Tax on Intangible Personal Property
DATE: February 17, 2001 REVISED: 3/6/01

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Maclure	Maclure	CM	Favorable
2.			FT	
3.				
4.				
5.				
6.				

I. Summary:

This bill makes the following changes to current law regarding the tax on intangible personal property:

- The intangible tax rate is lowered to .5 mill from 1 mill.
- To retain the inducement for investing in a Florida's Future Investment Fund, the intangible tax rate on securities in such a fund is lowered to .35 mill from .85 mill when the average daily balance in such funds exceeds \$2 billion and to .20 mill from .70 mill when the average daily balance exceeds \$5 billion.

This bill substantially amends the following sections of the Florida Statutes: 199.032 and 199.033.

II. Present Situation:

Tax on Intangible Personal Property

Florida's tax on intangible personal property was enacted in 1931, and it 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(1), 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.)

The intangible 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 30, with discounts for early payment. (s. 199.042, F.S.)

The tax is paid by all “persons” (natural and non-natural), which term 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. 199.023(3), F.S.) The tax must be paid by all corporations that own, control, or manage intangible personal property that has a taxable situs within the state. (s. 199.052(1), F.S.)

The tax is capped at 2 mills by Article VII, Section 2, of the Florida Constitution. Section 199.032, F.S., provides that intangible personal property with a taxable situs in this state is taxed at 1 mill on each dollar of just valuation. Section 199.033, F.S., provides that securities in a Florida’s Future Investment Fund are taxed at a rate of .85 mill when the average daily balance in such funds exceeds \$2 million and at the rate of .70 mill when the average daily balance in such funds exceeds \$5 billion.

The intangible tax rate was increased from 1 mill to 1.5 mills in 1990, and it was increased to 2 mills in 1992. In more recent years, the Legislature has enacted a number of revisions to the tax on intangible personal property:

- The intangible tax rate was lowered from 2 mills to 1.5 mills in 1999. (ch. 99-242, L.O.F.)
- During the 2000 legislative session, the tax rate was lowered to 1 mill. (ch. 2000-173, L.O.F.)
- To retain the inducement for investing in a Florida’s Future Investment Fund, in 2000 the intangible tax rate on securities in such a fund was lowered to .85 mill from 1.35 mills when the average daily balance in the funds exceeds \$2 billion and to .70 mill from 1.2 mills when the average daily balance exceeds \$5 billion. (ch. 2000-173, L.O.F.)
- In 1998, the Legislature exempted from intangible tax one-third of the value of accounts receivable. (ch. 98-132, L.O.F.)
- The exemption for accounts receivable was increased to two-thirds in 1999. (ch. 99-242, L.O.F.)
- The value of accounts receivable was exempted from the tax altogether in 2000. (ch. 2000-173, L.O.F.)
- The sharing of intangible tax revenues with the counties was repealed in 2000. (ch. 2000-173, L.O.F.)

The term “accounts receivable” is defined as “a business debt that is owed by another to the taxpayer or the taxpayer’s assignee in the ordinary course of trade or business and is not supported by negotiable instruments.” (s. 199.185(1)(l), F.S.) The statute provides that accounts receivable “include, but are not limited to, credit card receivables, charge card receivables, credit receivables, margin receivables, inventory or other floor plan financing, lease payments past due, conditional sales contracts, retail installment sales agreements, financing lease contracts, and a claim against a debtor usually arising from sales or services rendered and which is not necessarily due or past due.” (s. 199.185(1)(l), F.S.)

Florida's Future Investment Funds

In 1997, the Legislature created a program designed to encourage the business community to contribute to special state-sponsored investment funds, which, in turn, would provide financial support for computers, computer technology, training in computer education, and scholarships for business-related careers for the education system. The investment funds were to be known as "Florida's Future Investment Funds." (*See* s. 1, ch. 97-188, L.O.F.) The law specified that the intangibles tax rate on securities in a Florida's Future Investment Fund would be 1.85 mills when the average daily balance in such funds exceeds \$2 billion and 1.70 mills when the average daily balance exceeds \$5 billion. The tax rate was lowered in 1999 (s. 2, ch. 99-242, L.O.F.) and in 2000 (s. 3, ch. 2000-173, L.O.F.) to the current level of .85 mill and .70 mill, respectively. (s. 199.033, F.S.)

III. Effect of Proposed Changes:

This bill lowers the tax rate to .5 mill – from the current rate of 1 mill – on each dollar of the just valuation of intangible personal property that has a taxable situs in this state. (s. 199.032, F.S.)

This bill also lowers the intangible tax rate on securities in a Florida's Future Investment Fund to .35 mill (from .85 mill) when the average daily balance in such funds is greater than \$2 billion and to .20 mill (from .70 mill) when the average daily balance is greater than \$5 billion.

The changes made by this bill to the intangible tax rate take effect July 1, 2001, and apply to tax years beginning after December 31, 2001.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None. Chapter 2000-173, L.O.F., repealed the sharing of intangible tax revenues with the counties. The law provided that an additional 2.25 percent of the available proceeds shall be transferred from sales and use tax collections to the Revenue Sharing Trust Fund for Counties. (*See* ss. 8-9, ch. 2000-173, L.O.F.)

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 has not established a projected revenue impact associated with this specific bill; however, it has done so for House Bill (HB) 21, which is

similar to Senate Bill (SB) 128. House Bill 21 differs slightly in that it does not lower the intangible tax rate on securities in a Florida's Future Investment Fund as much as SB 128 does. Nonetheless, the fiscal estimate for HB 21 is expected to be accurate for SB 128 as well. The estimated fiscal impact upon General Revenue associated with HB 21 is (\$229.2) million cash for Fiscal Year 2001-02 and (\$263.8) million recurring.

B. Private Sector Impact:

Both individuals and businesses will experience a lower intangible tax rate if this bill becomes a law.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.