

STORAGE NAME: h1961.fpr.doc

DATE: April 16, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FISCAL POLICY & RESOURCES
ANALYSIS**

BILL #: HB 1961 (PCB FPR 01-08)

RELATING TO: State Tax Policy

SPONSOR(S): Committee on Fiscal Policy & Resources and Representative Wallace

TIED BILL(S): None

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

(1) FISCAL POLICY & RESOURCES YEAS 12 NAYS 1

(2)

(3)

(4)

(5)

I. SUMMARY:

This bill provides that it is the policy of this state that only those items, services, and other transactions deemed subject to tax under ch. 212, F.S., on July 1, 2001, shall be taxed under that chapter, unless made subject to that tax by act of the legislature.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

As a general rule, statutes which purport to impose taxation must come clearly within the letter of the statute, and may be collected only within the definite boundaries recited by statute. See Maas Brothers, Inc. v. Dickinson, 195 So.2d 193 (Fla. 1967); and Overstreet v. Ty-Tan, Inc., 48 So.2d 158 (Fla. 1950). Therefore, tax statutes must be strictly construed against the state and in favor of the taxpayer. See Maas Bros. and Lloyd Enterprises, Inc. v. Department of Revenue, 651 So.2d 735 (Fla. 5th DCA 1995).

Tax exemptions, however, are matters of legislative grace. Just as taxing statutes are strictly construed against the state, it is a well-recognized rule of law that tax exemptions must be strictly construed against the taxpayer seeking them and in favor of the state. See Asphalt Pavers, Inc. v. Dept. of Revenue, 584 So.2d 55 (Fla. 1st DCA 1991); State Dept. of Revenue v. Anderson, 403 So.2d 397, 399 (Fla. 1981); and Green v. Pederson, 99 So.2d 292, 296 (Fla. 1957).

The court in Green v. Pederson states: "It is well settled that he who would shelter himself under an exemption clause in a tax statute must show clearly that he is entitled under the law to an exemption; and the law is to be strictly construed . . ." Moreover, even doubtful language in a statute in exemption statutes are construed against the taxpayer. See United States Gypsum Company v. Green, 110 So.2d 409 (Fla. 1959).

C. EFFECT OF PROPOSED CHANGES:

This bill provides that it is the policy of this state that only those items, services, and other transactions deemed subject to tax under ch. 212, F.S., on July 1, 2001, shall be taxed under that chapter, unless made subject to that tax by act of the legislature.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

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C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON FISCAL POLICY & RESOURCES:

Prepared by:

Staff Director:

Douglas Pile

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