

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 141 Taxable Price of Bundled Transactions
SPONSOR(S): Haridopolos
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Business Regulation		Holt	Liepshutz
2) Finance & Tax			
3) Appropriations			
4)			
5)			

SUMMARY ANALYSIS

The bill creates a new section in Chapter 202, F.S., that provides a methodology for taxing bundled communications transactions. The bill defines “bundled transaction.” A bundled transaction means a transaction consisting of distinct and identifiable properties and services that are sold for a single nonitemized price but which are treated differently for tax purposes.

The bill further prescribes that in the case of a bundled transaction that includes taxable and tax exempt properties and services, certain principles apply:

If the price is attributable to properties or services that are taxable and properties or services that are non taxable, the properties or services shall be subject to the tax unless the provider can reasonably identify such portion from its books and records kept in the regular course of business.

If the price is attributable to prices or services that are taxable at different rates, the total price shall be treated as attributable to the properties or services taxable at the highest rates unless the provider can reasonably identify the portion of the price attributable to properties or services at the lower rate.

This Act takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | 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. EFFECT OF PROPOSED CHANGES:

Chapter 202, F.S., relates to the Communications Services Tax Simplification Law. Section 202.11(14), F.S., provides in part that:

(14) "Sales price" means the total amount charged in money or other consideration by a dealer for the sale of the right or privilege of using communications services in this state, including any property or other services that are part of the sale. The sales price of communications services shall not be reduced by any separately identified components of the charge that constitute expenses of the dealer, including, but not limited to, sales taxes on goods or services purchased by the dealer, property taxes, taxes measured by net income, and universal-service fund fees.

Section 202.11(14)(b), F.S., provides in part that the sales price of communications services does not include charges for any of the following:

7. Charges for property or other services that are not part of the sale of communications services, if such charges are stated separately from the charges for communications services.

The bill creates s. 202.165, F.S., and provides a definition for a bundled transaction. For purposes of the section, a bundled transaction means a transaction consisting of distinct and identifiable properties and services that are sold for a single nonitemized price but which are treated differently for tax purposes.

The bill provides for a single nonitemized price for transactions that are bundled with taxable and nontaxable properties or services if the provider can reasonably identify the different portions of the price from its books and records.

The bill further provides that if the provider can not reasonably identify the different portions of the total price from its books and records, the total price shall be subject to the appropriate tax.

The bill also allows the sale of services or properties that are taxed at different rates for a single nonitemized price to be taxed based on the different tax rates attributable to the different portions of the

total price, if the provider can reasonably identify the portions of the transaction that are subject to different tax rates from its books and records. If the provider cannot reasonably identify the portion of the price taxable at a lower rate, the entire sales price is subject to tax at the highest rate.

C. SECTION DIRECTORY:

Section 1. Creates s. 202.165 relating to the taxable price of a bundled transaction

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Unknown. A revenue estimating conference has not been conducted.

2. Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Unknown. A revenue estimating conference has not been conducted.

2. Expenditures:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to industry representatives, many states have already adopted wireline bundling provisions. The communications industry has been working together to develop a fair and equitable methodology for taxing bundles of taxable and exempt services.

D. FISCAL COMMENTS:

A revenue estimating conference has not been conducted. Preliminary discussions have been had with the Department of Revenue (DOR). In its bill analysis, DOR has raised concerns relating to the administration and/or enforcement of the bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES