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.)

Prepared By: Government Efficiency Appropriations Committee

BILL: CS/SB 2348

SPONSOR: Government Efficiency Appropriations Committee, Senators Haridopolos, Wise, and Others

SUBJECT: Intangible Personal Property Tax

DATE: April 26, 2005 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fournier	Johansen	GE	**Fav/CS**
2.			BI	
3.			CA	
4.			WM	
5.				
6.				

I. Summary:

Chapter 199, F.S., imposes two different intangible personal property taxes: an annual (or recurring) tax is imposed at the rate of 1 mill on the value of stocks, bonds, notes, and other intangible personal property; a non-recurring tax is imposed on obligations secured by liens on Florida realty at the rate of 2 mills. Individuals and businesses are currently obligated to pay an annual (recurring) tax on stocks, bonds, notes, governmental leaseholds, and interests in limited partnerships registered with the Securities and Exchange Commission (SEC). Current law exempts from the annual (recurring) tax $250,000 for each natural person and $500,000 for each natural person and spouse filing a joint return. The law also provides a $250,000 exemption for corporations and other legal entities.

This committee substitute reduces to 0.5 mill the rate of annual (recurring) tax imposed on stocks, bonds, notes, and other intangible property. No change is made to the 2 mills non-recurring tax imposed upon obligations secured by liens on Florida property.

This bill amends s. 199.032, F.S.

II. Present Situation:

Chapter 199, F.S., currently imposes two different intangible personal property taxes: an annual (or recurring) tax is imposed at the rate of 1 mill on the value of stocks, bonds, notes, and other intangible personal property; as well as a non-recurring tax on obligations secured by liens on Florida realty at the rate of 2 mills. Individuals and businesses are currently obligated to pay an annual (recurring) tax on stocks, bonds, notes, governmental leaseholds, and interests in limited partnerships registered with the Securities and Exchange Commission (SEC). Current law exempts from the annual (recurring) tax $250,000 for each natural person and $500,000 for each natural person and spouse filing a joint return. The law also provides a $250,000 exemption for all other taxpayers, including businesses.

History of the Intangible Tax

Before 1924, there was no constitutional distinction between intangible property and other property, and all was subject to ad valorem taxation. The Florida Constitution was amended in 1924 to allow a special tax rate for intangible property, and in 1931 this provision was enacted into law. The 2 mill tax was assessed and collected at the county level and was deposited into the states' General Revenue Fund. In 1941 intangibles tax revenue was used to fund county tax assessors and collectors, and the remainder was divided between General Revenue (75%) and the county where collected (25%). Tax rates were changed to 1 mill on stocks and bonds, 3 mills on mortgages, and 1/20 mill on money.

In 1951 the tax rate on mortgages was reduced to 2 mills, and in 1955 the disposition of intangibles tax revenue was changed to pay for retirement of state and county officers and employees, with the balance going to General Revenue. In 1957, the tax on stocks and bonds was raised to 2 mills. In 1961, the Legislature passed a 2-year phased reduction to 1 mill.

In 1967, 55% of net collections was shared with counties where collected. The Department of Revenue began assessing and collecting the tax in 1971 and the tax on money was repealed. The Revenue Sharing Act of 1972 channeled 55% to the counties through a revenue sharing formula. In 1974 the $20,000 annual exemption for the tax on stocks and bonds for each taxpayer and spouse was created.

Several changes were made to the intangibles tax in 1990. The annual tax rate was increased to 1.5 mills with an additional exemption of $100,000 per person and spouse against the additional .5 mill. The tax base was broadened to include interests in limited partnerships registered with the SEC and an exemption from the additional .5 mill levy was provided to charitable trusts which distribute 95% of their income to organizations exempt from federal income tax under s. 501(c)3. of the I.R.C. The credit that banks can take against the corporate income tax for intangible taxes paid was raised from 40% to 65% of corporate taxes due and banks were guaranteed the higher of this credit or a credit equal to 33% of their intangible tax liability. The distribution was changed in 1990 from 55% to 41.3% to the Revenue Sharing Trust Fund for Counties and from 45% to 58.7% to the General Revenue Fund. This distribution change was calculated to direct the additional revenue to the General Revenue Fund.

In 1992, the tax on intangible personal property was increased from 1.5 mills to 2 mills with banks and savings associations being exempt from the .5 mill increase. The personal exemption of $100,000 for individuals and $200,000 per couple applied to the additional .5 mill. The intangibles tax distribution was changed from 41.3% to 33.5% to the Revenue Sharing Trust Fund for Counties and from 58.7% to 66.5% to the General Revenue Fund. This distribution change was calculated to direct the additional revenue to the General Revenue Fund.

In 1998 several significant changes were made to the intangibles tax: the minimum tax amount of tax due before a return and payment are required was raised from $5 to $60 dollars; one-third of accounts receivable was exempted from the intangibles tax beginning January 1, 1999, and the act expressed the intent of the Legislature to increase the exempt amount to two-thirds on January 1, 2000, and to completely exempt accounts receivable on January 1, 2001; the penalties for late payment and late filing were limited to a total of 10 percent per month and 50 percent of the total tax due. The penalty for under-reporting and undervaluation was reduced from 30 percent to 10 percent; and banks, savings associations, and insurers were exempted from intangibles tax. The distribution rate was changed to 35.3% for the Revenue Sharing Trust Fund for Counties for FY 1998-1999, and to 37.7% for FY 1999-2000.

In 1999, the Legislature reduced the annual tax on intangible assets to a 1.5 mill tax rate, and increased the exemption for accounts receivable to two-thirds. The law also provided that limited liability companies may file consolidated intangibles tax returns. Certain charitable trusts were fully exempted from the annual tax, the calculation of tax on future advances was changed, and an exemption for unit investment trusts was provided. In 2000, the Legislature reduced the annual tax rate to 1 mill and fully exempted accounts receivable from the tax. It revised the treatment of Florida trusts, relieving Florida trustees of paying intangibles tax on trust assets, and it provided that a Florida resident with a beneficial interest in a trust is responsible for reporting his or her share of trust assets and paying intangibles tax on it. The law also repealed the sharing of intangibles tax with counties (and replaced the revenue with sales tax). Chapter 2001-225, L.O.F., increased the exemption against the annual tax to $250,000 for each natural taxpayer and spouse, and created a $250,000 exemption for all other taxpayers, mainly businesses. In Special Session C in December, 2001, the increased exemption level was postponed until the 2004 tax year. The higher exemption rates and new exemption for business filers enacted in ch. 2001-255, L.O.F., and postponed in December 2001 went into effect January 1, 2004.

Chapter 2004-234, Laws of Florida, provided that all proceeds of the intangibles tax are deposited in the General Revenue fund, except for revenue collected pursuant to the tax on governmental leaseholds, which is returned to the local school boards in the counties where the leasehold property is located.

III. Effect of Proposed Changes:

CS/SB 2348 reduces the annual rate of the tax on intangible personal property from 1 mill to 0.5 mill, effective January 1, 2006.

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:

The Revenue Estimating Conference has estimated that this bill will reduce General Revenue by $123.8 million in FY 2005-06, with a recurring General Revenue reduction of $154 million. School districts are expected to lose $.6 million in 2006-07 and thereafter.

B. Private Sector Impact:

This bill is expected to reduce the number of intangibles tax filers by almost 30,000 in FY 2005-06, from approximately 216,000 to 186,000.

C. Government Sector Impact:

The reduction in the intangibles tax rate will reduce the revenue of school districts by $0.6 million annually, beginning in 2006-07.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.