HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 857 Communications Services Taxes
SPONSOR(S): McBurney
TIED BILLS: None. **IDEN./SIM. BILLS:** SB 1590

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Energy & Utilities Policy Committee	22 Y, 0 N	Keating	Collins
2)	Military & Local Affairs Policy Committee			
3)	General Government Policy Council			
4)	Finance & Tax Council			
5)				

SUMMARY ANALYSIS

Section 202.29, F.S., states that a provider of communications services subject to the Communications Services Tax (referred to in Chapter 202, F.S., as a "dealer") may take a credit, or claim a refund, for tax already paid by the provider on a balance that ultimately is written off as bad debt. A dealer is required to report credits for bad debts separately from the tax when it files its return. The dealer must report the credit by the time period and by the jurisdiction in which the original sale occurred.

HB 857 allows dealers to net the tax paid on amounts later written off as bad debt against the amount of tax due for reporting purposes, provided that the resulting amount is not less than zero. The bill allows these dealers to use a "proportionate allocation method," based on gross taxes due, to determine the credit for bad debt attributable to the state or a local jurisdiction. The Department of Revenue may approve use of another reasonable allocation method.

The bill provides for retroactive operation to July 1, 2000, as a remedial measure, but does not create a right to a refund or require a refund by any governmental entity of any amount remitted to the Department of Revenue before July 1, 2009.

The bill has no fiscal impact on state or local governments.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives:

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Adopted by the Legislature in 2000 and 2001, Chapter 202, F.S., establishes the "Communications Services Tax Simplification Law."[1] The law restructured taxes applicable to a broad array of communications services, including local and long distance telephone service, cable television, direct-to-home satellite television, and other related services.

The communications services tax (CST) replaced and consolidated several different state and local taxes and fees into two taxes: the Florida CST and the local CST. The Florida CST is established in s. 202.12, F.S., and is applied at a rate of 6.8% to all communications services except direct-to-home satellite services, which are taxed at a rate of 10.8%. The local CST is established in s. 202.19, F.S., and varies by jurisdiction. It is not applicable to direct-to-home satellite services. The state CST and local CST are collected by communications service providers and remitted to the Department of Revenue (DOR), who distributes the proceeds to the appropriate jurisdictions.[2]

Section 202.29, F.S., states that a provider of communications services subject to the CST (referred to in Chapter 202, F.S., as a "dealer") may take a credit, or claim a refund, for tax already paid by the provider on a balance that ultimately is written off as bad debt. According to DOR, a dealer is required to report credits for bad debts separately from the tax when it files its return. The dealer must report the credit by the time period and by the jurisdiction in which the original sale occurred. DOR estimates that the average credit historically has been approximately 3%.

Effect of Proposed Changes

HB 857 amends s. 202.29, F.S., by allowing dealers, for reporting purposes, to "net" the credit allowed by s. 202.29, F.S., against the amount of tax due to the state or to the local jurisdiction. The netting may not reduce the amount due to the state or any local jurisdiction below zero.

The bill allows dealers to use a proportionate allocation method to determine the credit for bad debt attributable to the state or a local jurisdiction, rather than specifically identifying the jurisdiction in which the bad debt originated. The allocation method must be based upon current gross taxes due, rather

[1] Ch. 2000-260 and 2001-140, Laws of Florida.

[2] See, generally, http://dor.myflorida.com/dor/taxes/cst.html

than requiring dealers to identify the specific time period of the sales associated with the bad debt. The bill also allows dealers to use other reasonable allocation methods approved by DOR. It appears that these provisions will ease data retention requirements on dealers who may seek a credit for bad debt. It is not clear, however, what a proportionate allocation method precisely entails or what may qualify as another "reasonable" allocation method.

The bill provides that it shall operate retroactively to July 1, 2000, but only as a remedial measure. The bill specifies that the retroactive operation of its provisions does not create a right to a refund and does not require a refund by any governmental entity of any tax, penalty, or interest remitted to DOR before July 1, 2009.

The bill provides an effective date of July 1, 2009.

B. SECTION DIRECTORY:

Section 1. Amends s. 202.29, F.S., relating to credits against communication service taxes for bad debts.

Section 2. Provides that the act shall operate retroactively to July 1, 2000, in a remedial manner only.

Section 3. Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will ease data retention requirements on dealers who may seek a credit for bad debt and, thus, may reduce dealers' administrative costs.

D. FISCAL COMMENTS:

It appears that the bill will not impact the total credit claimed for bad debt and, thus, will not impact the total revenues collected. According to the Department of Revenue (DOR), a proportionate allocation method will allocate any credit for bad debt to the state and local jurisdictions in the same proportion as CST revenues are distributed in a given month. Thus, some slight variances in revenues may be expected from month-to-month, but, over time, total revenues should not be affected.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES