The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 484

INTRODUCER: Senators Hukill and Bean

SUBJECT: Tax on Sales, Use, and Other Transactions

DATE: March 31, 2017 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	**Favorable**
2.			AFT	
3.			AP	

I. Summary:

SB 484 reduces the tax rate imposed on the rent or license fee charged for the use of commercial property from 6 percent to 5 percent.

II. Present Situation:

The Florida Sales and Use Tax is a 6 percent levy on retail sales of most tangible personal property, admissions, transient lodgings, commercial rentals, and motor vehicles.[1] Since enactment in 1949, Florida's sales tax rate has been modified several times. In 1968, the Legislature increased rates on most items from 3 percent to 4 percent. In 1982, rates were increased from 4 percent to 5 percent. In the 1987 Regular Session, the Legislature passed legislation extending the tax to sales of many services.[2] During Special Session D in December 1987, the Legislature repealed the recently-enacted service tax and increased the general sales tax rate from 5 percent to 6 percent, the current tax rate.[3]

Section 212.031, F.S., provides for a tax levied in an amount equal to 6 percent on the total rent or license fee charged for the exercise of the taxable privilege of engaging in the business of renting, leasing, letting, or granting a license for the use of any real property unless the type of property is specifically exempted. Exemptions exist for the following types of property:

- Agricultural assessed property;[4]
- Dwelling units;[5]

[1] Chapter 212, F.S.
[2] Chapter 87-6, 101, Laws of Fla.
[3] Chapter 87-548, Laws of Fla.
[4] Section 212.031 (1)(a)1, F.S.
[5] Section 212.031 (1)(a)2, F.S.

- Parking, docking, or storage spaces;[6]
- Recreational property or common elements of a condominium that meet certain conditions;[7]
- Streets or right-of-ways with improvements used by a utility or provider of communications services;[8]
- Public street or road used for transportation services;[9]
- Airport property used exclusively for landing, taxiing, passenger movement or fueling;[10]
- Port authority property used exclusively for docking, mooring, passenger movement, or fueling;[11]
- Property used as an integral part of the performance of qualified production services;[12]
- Property used by concessionaires at certain venues;[13]
- Property declared to be nontaxable pursuant to a Technical Assistance Advisement issued before March 15, 1993;[14] and
- Property used or occupied predominately for space-flight business.[15]

In addition to the exemptions specified above, other statutory provisions exempt specific uses of property from sales and use taxes.

- A special provision for air carriers provides for apportionment of the tax on real property rentals used by the carrier for aircraft maintenance.[16]
- A limited exemption exists for leases of real property used to provide education services described in s. 212.031 (1)(a)(9), F.S.[17]
- Business properties within an enterprise zone are authorized to receive a refund for certain previously paid taxes.[18]
- Exemptions exist for religious institutions, Section 501(c)(3) organizations, and fair associations.[19]

The 6 percent tax on transient lodging rentals, parking and storage for motor vehicles in parking lots or garages, docking or storage for boats in boat docks or marinas, or tie-down or storage space for aircraft in airports[20] is not affected by this bill.

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[6] Section 212.031 (1)(a)3, F.S. Parking, docking and storage facilities for boats, and tie-down or storage space for aircraft at airports is taxable under s. 212.03(6), F.S.
[7] Section 212.031 (1)(a)4, F.S.
[8] Section 212.031 (1)(a)5, F.S.
[9] Section 212.031 (1)(a)6, F.S.
[10] Section 212.031 (1)(a)7, F.S.
[11] Section 212.031 (1)(a)8, F.S.
[12] Section 212.031 (1)(a)9, F.S.
[13] Section 212.031 (1)(a)10, F.S.
[14] Section 212.031 (1)(a)11, F.S. This exemption applied to a limited number of situations that existed before April 1993 and is not available to new lease contracts.
[15] Section 212.031 (1)(a)12, F.S.
[16] Section 212.0598, F.S.
[17] Section 212.0602, F.S.
[18] Section 212.08(5)(h), F.S.
[19] Sections 212.08(7)(m),(p),and (gg), F.S.
[20] Section 212.03(1) and (6), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 212.031(1)(c) and (d), F.S., to reduce the tax rate imposed on the rent or license fees charged for the use of commercial property from 6 percent to 5 percent.

Section 2 provides an effective date of January 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference analysis of the bill finds it will reduce sales and use tax revenue by $125.9 million in Fiscal Year 2017-2018 and $302.2 million on a recurring basis. [21] It decreases General Revenue and local revenue by $267.6 million and $34.6 million, respectively, on a recurring basis. In Fiscal Year 2017-2018, the bill reduces General Revenue by $111.5 million and local revenue by $14.4 million.[22]

B. Private Sector Impact:

Landlords and tenants will benefit from a reduction in the tax on commercial rentals. A 2014 study, "The Economic Impact of Sales Tax on the Rental of Real Property," found that "since the leasing market has demonstrated a history of growth and manageable vacancies over the long run, it is unlikely on its face that the rental tax had materially driven a significant number of the economic actors into other paths."[23] The report analyzed the impact of a total repeal of the tax on commercial rentals and concluded that "property owners would likely gain the greatest benefit from eliminating the tax (on commercial rentals), but this effect would be masked for a period of at least 3 to 5 years

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[21] Office of Economic and Demographic Research, Revenue Estimating Conference, SB 484, p. 260, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/_pdf/Impact0303.pdf (analyzed March 3, 2017).
[22] *Id.*
[23] Office of Economic and Demographic Research, The Florida Legislature, p. 3, available at http://edr.state.fl.us/Content/returnoninvestment/SalesTaxontheRentalofRealProperty.pdf (Nov. 15, 2014).

by the length of existing contracts."[24] The report adds "A straight reduction in the tax rate is analyzed in the same manner as complete elimination."[25]

C. Government Sector Impact:

See Tax/Fee Issues above.

In its analysis, the Department of Revenue provided that if the bill passes, the department will have $56,465 in nonrecurring expenditures for the 2017-2018 fiscal year.[26] The costs include the mailing of a Tax Information Publication (TIP) notifying approximately 146,000 taxpayers of the sales and use tax exemption to notify them of the change in the sales tax rate collected on the commercial rental of real property.[27] The estimated cost for this TIP is $49,000, but it is nonrecurring.[28] Furthermore, the costs will include a nonrecurring $7,465 expenditure to modify the sales use tax website application and make the necessary modifications to the SUNTAX system.[29]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.031 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

[24] *Id*. p. 5.
[25] *Id.*
[26] Department of Revenue, Legislative Bill Analysis for SB 484, p. 5 (analyzed February 20, 2017)
[27] *Id.* at 6
[28] *Id.*
[29] *Id.*