

TAX ADMINISTRATION AND COMPLIANCE

HB 165 — Ad Valorem Exemption for Disabled Veterans

by Reps. Paul, Fasano, and others (SB 136 by Senators Burt and Pruitt)

This bill amends s. 196.24, F.S., to increase from \$500 to \$5,000 the reduction in taxable value to any resident ex-service member who has been disabled to a degree of 10 percent or more while serving during a period of wartime service or by misfortune.

If approved by the Governor, these provisions take effect January 1, 2003.

Vote: Senate 32-0; House 118-0

CS/SB 426 — Tax Administration

by Finance & Taxation Committee and Senator Campbell

CS/SB 426 includes the Department of Revenue's General Tax Administration Bill and the recommendations of the State Tax Reform Task Force and the Tax Section of The Florida Bar. The bill's provisions are intended to improve fairness to taxpayers, make it easier for taxpayers to comply with Florida tax laws, and to reduce unnecessary filings. The major provisions of the bill are as follows:

Reinstates the sales tax exemptions for parent-teacher associations that were inadvertently eliminated due to a change in the definition of "educational institution."

- For sales tax purposes the bill replaces the definition of certain machinery and equipment with a definition that is consistent with a past federal explanation of the term.
- For sales tax purposes, the bill modifies the law to impose certain requirements on the removal of motor vehicles from the state.
- Provides consistent treatment under the sales tax statutes for vessels, railroads, and motor vehicles engaged in interstate or foreign commerce.
- Provides that general tax administration provisions of the Department of Revenue would apply to the collection of unemployment compensation taxes.
- Lowers unemployment compensation tax electronic filing and payment thresholds from \$50,000 to \$10,000.

- Provides for an automatic compromise of penalties where the dealer made a good faith effort to comply with the law.
- Limits sales tax penalties for inadvertent registration errors and encourages voluntary self-disclosure.
- Clarifies that payments to utility companies by a regional transmission organization are not subject to the sales tax on rentals.
- Provides for the forgiveness of sales tax, penalty, and interest resulting from failure to use the traditional rounding of tax, under certain circumstances.
- Extends for an additional 3 years, from 2003 to 2006, the sales tax exemptions awarded to facilities such as civic centers, convention halls, stadiums, and performing arts centers.
- Reenacts the aviation fuel tax credit for certain airlines. This provision expired July 1, 2001.
- The bill reenacts language regarding the Municipal Revenue Sharing calculations for Metro-Dade's distribution that was contained in Supplemental Appropriations Bill SB 2-C, which expires on June 30, 2002.
- Provides that a taxpayer's liability for interest shall be settled or compromised whenever the DOR determines that a delay in the determination of the amount of interest due is attributable to the action or inaction of a DOR employee.
- Reduces from 5 percent to 4.7 percent, the upper threshold that triggers a downward tax rate adjustment due to excessive unemployment compensation trust fund balances, and reduces from 4 percent to 3.7 percent, the lower threshold that triggers an upward tax rate adjustment due to low unemployment trust fund balances.
- Clarifies that the "Rewards Program" is the only means available to obtain compensation for information regarding another person's failure to comply with the state's tax laws.
- Provides that tax does not apply to a contract to sell the residence of an employee relocation company, but tax does apply to the transfer by deed that names the grantee.
- Includes a change in the apportionment of adjusted federal income for certain industries.
- Extends the certified audit program for an additional 4 years.
- Eliminates the requirement for certain intangibles tax and corporate income tax returns when no tax is due.

- Repeals the documentary stamp tax on stock certificates, and caps the tax on unsecured loans.
- Authorizes the Department of Revenue to waive registration fees for online registrations.
- Provides that interest on any corporate income tax deficiency accrues from the date fixed for filing the original return.
- Allows certain employers of domestic service employees to file annually for unemployment tax.
- Provides that for a certain industry, if the ultimate destination of the product is a location outside the state, the sale is not deemed to occur in this state.
- Provides for an additional choice of venue for initiating action in tax cases, and allows improperly filed cases to be transferred, rather than dismissed.
- Allows a taxpayer to establish overpayment of sales and use tax through statistical sampling when applying for a refund.
- Requires that penalties in excess of 25 percent of the tax be settled or compromised under certain conditions, and provides for a de novo review of challenges to penalty assessment.
- Provides that certain single-member limited liability companies that are disregarded for federal income tax purposes must be treated as separate legal entities for non-income tax purposes.
- Expands the definition of “qualified student,” for purposes of granting tax credits for contributions to eligible non-profit scholarship funding organizations.

If approved by the Governor, except as otherwise expressly provided, these provisions take effect upon becoming law.

Vote: Senate 28-7; House 73-43

CS/SB 462 — Limit on the Documentary Stamp Tax on Unsecured Notes

by Finance & Taxation Committee and Senator Pruitt

This bill amends s. 201.08, F.S., to provide that the documentary stamp tax shall not exceed \$2,450 on new or renewed promissory notes, nonnegotiable notes, written obligations to pay money, or assignments of salaries, wages, or other compensation made, which are executed,

delivered, sold, transferred, or assigned in the state, including those documents relating to sales made under retail charge account services, incident to sales which are not conditional in character and which are not secured by mortgage or other pledge of purchaser. (Under current law, \$2,450 is the amount of documentary stamp tax that is due on a promissory note or other unsecured obligation in the amount of \$700,000.) The bill also provides that if a mortgage, trust deed, security agreement, or other evidence of indebtedness is subsequently filed or recorded in this state to evidence an indebtedness or obligation upon which tax was capped at \$2,450, tax shall be paid on the amount of the indebtedness which was not taxed because of the cap.

This bill also amends s. 601.155(5), F.S., to eliminate an exemption from an equalizing tax that currently exists for certain citrus products that are produced in whole or in part from citrus fruit grown outside of Florida, but within the United States. As a result of the amendment, the exemption from the equalizing tax will apply only to products, or parts of those products, made from citrus fruit grown and placed into the primary channel of trade in this state.

If approved by the Governor, these provisions take effect July 1, 2002.

Vote: Senate 37-0; House 117-0

SB 1104 — Continuation of the Certified Audit Program

by Senator Sullivan

The bill extends the Department of Revenue's Certified Audit Program through July 1, 2006. Under current law this program is repealed July 1, 2002. The Certified Audit Program is a cooperative pilot effort between the Florida Department of Revenue and the Florida Institute of Certified Public Accountants. This program gives taxpayers the opportunity to hire, at their own expense, qualified CPA firms to review their tax compliance. As an incentive to incur the cost of a certified audit, penalties are waived and interest abated if tax is owed as a result of the audit. Additionally, except in cases of fraud or misrepresentation, the Department will not audit taxpayers for the same period or tax covered by the certified audit period.

If approved by the Governor, these provisions take effect July 1, 2002.

Vote: Senate 39-0; House 117-0

CS/CS/SB 1360 — Property Tax Administration

by Finance & Taxation Committee; Comprehensive Planning, Local, & Military Affairs Committee; and Senator Pruitt

This bill makes several changes to the administration of property taxes. Many are derived from recommendations of the Department of Revenue's Property Tax Administration Advisory Council and are intended to improve the Value Adjustment Board process, provide for timely updates to guidelines for tangible personal property assessment, make it easier for tax collectors

to provide property tax refunds, and allow for flexibility in the format of Truth-In-Millage (TRIM) notices. Specifically, the bill:

- Provides that the Taxpayer Bill of Rights for property taxes includes the right to have special district taxes and assessments stated on TRIM notices;
- Authorizes the Department of Revenue (DOR) to specify the form used to petition the County Value Adjustment Board (VAB);
- Increases from 15 to 20 days the time the Clerk of the Court has to notify a petitioner to the VAB of his or her scheduled appearance;
- Establishes a uniform timeline for petitioners and property appraisers to exchange information used in VAB hearings;
- Grants DOR authority to establish, by rule, uniform procedures for VAB hearings;
- For counties with populations over 75,000, requires VABs to use special masters, and revises the qualifications for those special masters;
- Authorizes DOR to update the guidelines for tangible personal property assessment upon the approval of the executive director, rather than by administrative rule, unless an objection is filed with the department;
- Establishes procedures and a schedule for processing property tax refund claims;
- Provides DOR flexibility in printing TRIM forms to accommodate individual county needs;
- Provides that an independent special district created prior to July 1, 1993, is exempt from the tax increment financing requirements of a community redevelopment agency if ad valorem taxation is the only source of revenue that the district has authority to levy;
- Provides for exceptions to the assessment of property for back taxes, if the property has been acquired by a bona fide purchaser;
- Allows an error in the notice of proposed property taxes to be corrected by an advertisement in a newspaper of general circulation, if the error involves only the date and time of public hearings;
- Clarifies the assessment of low income properties that receive tax credits under federal and state housing programs;

- Provides that liens of special districts and community development districts survive tax deeds;
- Provides that property that has received an agricultural classification is entitled to receive such classification until agricultural use of the land is abandoned; and
- Creates s. 197.1722, F.S., which provides that a board of county commissioners may, by ordinance, extend the date of tax certificate sales and waive the 3-percent minimum mandatory charges and additional 30 days' interest under s. 197.172, F.S., for hotels, restaurants, and tourism facilities which demonstrate an inability to pay their property taxes because of a contraction in business income of 25 percent or more. This provision expires April 1, 2003.

This bill substantially amends the following sections of the Florida Statutes: 192.0105, 194.011, 194.032, 194.035, 195.062, 197.182 and 200.069, 125.271, 163.387, 193.092, 196.161, 200.065, 420.5093, and 420.5099. It creates s. 197.1722, F.S.

If approved by the Governor, these provisions take effect January 1, 2003.

Vote: Senate 36-0; House 107-1

CS/HB 1511 — Communications Services Tax

by Ready Infrastructure Council and Reps. Ritter and Attkisson (CS/CS/SB 1610 by Finance & Taxation Committee; Regulated Industries Committee; and Senator Pruitt)

This bill makes several technical, non-substantive changes to the Communications Services Tax law. It is the product of the Communications Services Tax Workgroup, which includes representatives of the Department of Revenue, local governments, and the communications industry. Nothing in this bill changes tax rates or adds to the number of taxable services.

The bill:

- Confirms the communications services tax exemptions for the sale of communications services to, and the sale of communications services by, religious and educational facilities to those in the sales tax statute;
- Clarifies that use tax is due on transactions that are taxable under the state and local communications services tax, as well as taxes administered under ch. 202, F.S.;
- Provides an exception for the public lodging industry from the requirement that dealers separately state the communications services tax on bills and invoices;

- Creates a transition rule for counties and municipalities to reduce their local communications services taxes on a specified date;
- Clarifies provisions governing the electronic database used to determine local tax situs for the communications services tax;
- Eliminates inadvertent double taxation by repealing the state sales tax on substitute equipment that was not repealed last year;
- Clarifies that the monthly E911 fee applies to a mobile communications services customer whose place of primary use is within the state;
- Clarifies that municipalities and counties may impose charges on pass-through providers up to \$500 per linear mile per year; and
- Instructs the Department of Revenue to report to the Legislature and the Governor on the accuracy of the state and local communications services tax rates adopted in 2001.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 32-0; House 114-0

SB 2028 — Corporate Income Tax Update

by Senator Pruitt

This bill updates the Florida Income Tax Code to reflect the changes Congress has made to the U.S. Internal Revenue Code of 1986. The definition of "Internal Revenue Code" is updated to include those provisions of the 1986 Code that existed and were in effect on January 1, 2002. This definition provides for "piggybacking" each change made during 2001 in the U.S. Internal Revenue Code.

If approved by the Governor, these provisions take effect upon becoming law and operate retroactively to January 1, 2002.

Vote: Senate 39-0; House 112-0

AD VALOREM TAXATION

CS/CS/HJR 833 — Tax Reform

by Fiscal Responsibility Council; Local Government & Veterans Affairs Committee; and Rep. Carassas (CS/SB 938 by Finance & Taxation Committee and Senators Pruitt, Carlton, McKay, Latvala, King, Lee, Rossin, Silver, Smith, Diaz de la Portilla, Holzendorf, Clary, Villalobos,

Laurent, Peaden, Saunders, Futch, Sullivan, Campbell, Brown-Waite, Geller, Dawson, Miller, Meek, Webster, Garcia, and Sebesta)

The joint resolution creates a Joint Committee consisting of six Senators appointed by the President of the Senate and six Representatives appointed by the Speaker of the House. The committee shall conduct a review of all exemptions from the sales and use tax and all exclusions of sales of services from the sales and use tax.

No later than the end of the next session in May 2003, the Legislature must agree on joint rules to govern this committee. These rules must establish a schedule for review of such exemptions and exclusions and provide criteria to be considered by the committee in conducting its review. Over the next three years, the committee must meet to review all exemptions and exclusions from the tax. The committee must submit its findings and recommendations to the presiding officers of each house of the Legislature no later than March 1 of 2004, 2005, and 2006.

The committee may decide to repeal an exemption or exclusion from the sales and use tax by a vote of seven members of the committee. A decision to de-authorize or repeal an exemption or exclusion is codified in the form of a resolution and submitted to the Legislature. The Legislature then has two regular sessions to consider the resolution. If the Legislature believes the exemption should be reinstated or the exclusion should be re-authorized, the Legislature can reinstate it by a simple majority vote of both chambers.

If the Legislature concurs with the committee's recommendations and takes no action, on July 1, following the second regular session after the committee's finding, the repeal of the exemption or the de-authorization of the exclusion becomes law.

The Joint Committee is dissolved July 1, 2006.

If approved by the voters in the November 5, 2002, general election, the constitutional amendment will take effect on that date.

Vote: Senate 30-9; House 74-43

OTHER TAX ISSUES

HB 173 — Calculation of Documentary Stamp Tax on a Certificate of Title Granted in a Foreclosure Proceeding

by Rep. Goodlette and others (CS/SB 180 by Finance & Taxation Committee and Senator Silver)

This bill (Chapter 2002-8, L.O.F.) creates s. 201.02(8), F.S., to provide that the documentary stamp tax on a certificate of title is calculated solely on the final bid amount if the certificate of title is issued to the party in whose favor the judgment of foreclosure is granted in the foreclosure

proceeding, notwithstanding the amount of any underlying indebtedness. It further provides that this provision applies retroactively, except that all taxes that have been collected must be remitted and taxes remitted before the effective date are not subject to refund.

The bill also amends s. 201.132, F.S., to allow the notation placed on documents to be recorded to include the initials or stamped initials or signature of the county comptroller or clerk of the court, as well as his or her signature. This conforms the law to current practice.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 37-0; House 119-0

