

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 Communications, Energy, and Public Utilities Committee

BILL: SB 1198

INTRODUCER: Senator Bogdanoff

SUBJECT: The Communications Services Tax

DATE: March 7, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Carter	CU	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

The bill changes the tax calculation information the Department of Revenue is to provide to communication service providers, which will in turn change how communications service providers calculate the amount of communications services tax owed. The new provision is intended to be remedial in nature and to apply retroactively; however, it is not intended to provide a basis for an assessment of any tax not paid or to create a right to a refund of any tax paid under this section before July 1, 2011.

The bill substantially amends sections 202.16 and 202.11 of the Florida Statutes.

II. Present Situation:

Chapter 202, F.S., establishes the Communications Services Tax Simplification Law. This law restructured taxes applicable to a broad array of communications services, including local and long distance telephone services, 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 percent to all communications services except direct-to-home satellite services, which are taxed at a rate of 10.8 percent. The local CST is established in s. 202.19, F.S., varies by jurisdiction, and is not applicable to direct-to-home satellite services. The Florida CST and the local CST are collected by communications service providers and remitted to the Department of Revenue (DOR), who distributes the proceeds to the appropriate jurisdictions.

Section 202.16(3), F.S., requires the Department of Revenue (DOR) to make available to dealers, in an electronic format or otherwise, the tax amounts and brackets applicable to each taxable sale such that the tax collected results in a tax rate no less than the tax rate imposed pursuant to chapters 202 and 203, F.S.

Chapter 203, F.S., provides for gross receipts taxes, taxes on the receipts for utility and communications services. Section 203.001, F.S, authorizes a dealer of communication services to collect a combined rate of 6.8 percent comprised of 6.65 percent and 0.15 percent required by ss. 202.12(1)(a) and 203.01(1)(b)3., respectively, as long as the provider properly reflects the tax collected with respect to the two provisions as required in the return to the DOR.

III. Effect of Proposed Changes:

Section 1 amends s. 202.16, F.S., to provide that the information that DOR is required to provide to dealers must be based on a rounding algorithm that carries the tax computation to the third decimal place and rounds the tax to a whole cent using a method that rounds up to the next cent whenever the third decimal place is greater than four. Dealers may compute the tax due on a transaction, on an item, or an invoice basis, but must allow the rounding algorithm to be applied to the aggregate state and local taxes imposed pursuant the CST and the gross receipts tax. DOR may allow but cannot require a dealer to collect the tax based on a bracket system such that the tax collected results in a tax rate no less than the tax rate imposed pursuant to chapters 202 and 203. This will change how communications service providers calculate the tax owed.

The new provision is intended to be remedial in nature and to apply retroactively; however, it is not intended to provide a basis for an assessment of any tax not paid or to create a right to a refund of any tax paid under this section before July 1, 2011.

Section 2 amends s. 202.11(11), F.S., to conform a statutory cross-reference in the definition of the term “retail sale.”

Section 3 provides that the bill takes effect July 1, 2011.

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:**

By changing how communications service providers calculate the amount of communications services tax owed, there will be an impact on the resulting tax revenue, the amount of which is unknown at this time.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.