

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

FINANCE AND TAX
Senator Gainer, Chair
Senator Gruters, Vice Chair

MEETING DATE: Wednesday, November 13, 2019
TIME: 2:30—3:45 p.m.
PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Building

MEMBERS: Senator Gainer, Chair; Senator Gruters, Vice Chair; Senators Baxley, Bracy, Bradley, Pizzo, Powell, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Consideration of proposed bill:			
1	SPB 7004	OGSR/Taxpayer E-mail Addresses Held by a Tax Collector; Amending a provision relating to an exemption from public records requirements for taxpayer e-mail addresses held by a tax collector for certain purposes; removing the scheduled repeal of the exemption, etc.	Submitted and Reported Favorably as Committee Bill Yeas 6 Nays 2
2	Update on Corporate Income Tax by Committee Staff		Presented
Other Related Meeting Documents			

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 Finance and Tax

BILL: SPB 7004

INTRODUCER: For consideration by the Finance and Tax Committee

SUBJECT: OGSR/Taxpayer E-mail Addresses Held by a Tax Collector

DATE: November 12, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Babin	Diez-Arguelles		FT Submitted as Comm. Bill/Fav

I. Summary:

SPB 7004 amends s. 197.3225, Florida Statutes, to remove the scheduled repeal of the public records exemption for e-mail addresses used by a tax collector to send certain tax notices.

The bill takes effect October 1, 2020.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, section 11.0431, Florida Statutes (F.S.), provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, chapter 119, F.S., provides requirements for public records held by executive agencies.

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020)

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material ... intended to perpetuate, communicate, or formalize knowledge.”⁷

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.⁸ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.⁹

General exemptions from the public records requirements are contained in the Public Records Act.¹⁰ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹¹

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.¹² Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.¹³

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ FLA. CONST. art. I, s. 24(c).

⁹ *Id.* See, e.g., *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹⁰ See, e.g., s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹¹ See, e.g., s. 213.053(2)(a), F.S. (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹² See *Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

¹³ *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

Open Government Sunset Review Act

The Open Government Sunset Review Act¹⁴ (the Act) prescribes a legislative review process for newly created or substantially amended¹⁵ public records or open meetings exemptions, with specified exceptions.¹⁶ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁷

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁸ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;¹⁹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²⁰ or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²¹

The Act also requires specified questions to be considered during the review process.²² In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²³ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote

¹⁴ Section 119.15, F.S.

¹⁵ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹⁶ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁷ Section 119.15(3), F.S.

¹⁸ Section 119.15(6)(b), F.S.

¹⁹ Section 119.15(6)(b)1., F.S.

²⁰ Section 119.15(6)(b)2., F.S.

²¹ Section 119.15(6)(b)3., F.S.

²² Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²³ See generally s. 119.15, F.S.

for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²⁴

Property Tax Notices

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.²⁵ The property appraiser annually determines the “just value”²⁶ of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s taxable value.²⁷

Taxpayers receive certain notices at various stages of the property tax administration process. For example:

- In August of each year, property appraisers send each taxpayer a notice of proposed property taxes, alerting the taxpayer of the property appraiser’s proposed assessment for the taxpayer’s property and the resulting tax that could be due, depending upon the local governments’ adopted budgets.²⁸
- In November of each year, tax collectors send tax notices to each taxpayer, informing the taxpayer of the amount of taxes due.²⁹ Taxes are generally due by the following March 31. Upon request by a mortgagee who holds property tax payments in escrow, tax collectors send this tax notice to the mortgagee.³⁰
- Tax collectors send notices by April 30 to each taxpayer who has not paid his or her tax bill, alerting the taxpayer that a tax certificate could be sold.³¹

Historically, tax notices have been sent to the taxpayer using postal mail.³² In 2011, the Legislature authorized tax collectors, after taxpayer consent, to deliver certain tax notices via electronic means.³³ Often, e-mail is the electronic means used by tax collectors to send notices.

²⁴ Section 119.15(7), F.S.

²⁵ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

²⁶ Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art. VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

²⁷ *See* s. 192.001(2) and (16), F.S.

²⁸ Section 200.069, F.S.

²⁹ Section 197.322(3), F.S.

³⁰ Section 197.344(1)(b), F.S.

³¹ Section 197.343(1), F.S.

³² *See, e.g.*, ss. 200.069, F.S. (requiring the notice of proposed property taxes to be sent by first-class mail); and 197.322(3), F.S. (authorizing the tax notice notifying the taxpayer of the amount of taxes due to be sent by postal mail).

³³ *See generally* ch. 2011-151, Laws of Fla.

Public Records Exemption for E-Mail Addresses held by Tax Collectors for Certain Purposes

In 2015, the Legislature created s. 197.3225, F.S., to exempt from disclosure e-mail addresses held by tax collectors for the following purposes:

- Sending a quarterly tax notice for prepayment of estimated taxes pursuant to section 197.222(3), F.S.;
- Obtaining a taxpayer's consent to electronically send the tax notice (the annual tax bill) described in section 197.322(3), F.S.;
- Sending an additional tax notice or delinquent tax notice (annual tax bill/delinquency notice) pursuant to section 197.343, F.S.;
- Sending a tax notice (the annual tax bill) to a designated third party, mortgagee, or vendee pursuant to section 197.344(1), F.S.

Section 197.3225(2), F.S., provides for repeal of the exemption pursuant to the Act on October 2, 2020, unless reviewed and saved from repeal by the Legislature. Chapter 2015-13, Laws of Florida, which created the exemption, provides a statement of public necessity.³⁴ The statement finds that, when combined with other personal identifying information, e-mail addresses can be used for identity theft, taxpayer scams, and other invasive contacts.

Tax collectors have indicated that they have received public records requests for e-mail addresses.³⁵

III. Effect of Proposed Changes:

The bill saves from repeal the public records exemption in s. 197.3225, F.S., which exempts from s. 119.07(1), F.S., and s. 24, Art. I, of the State Constitution, e-mail addresses held by tax collectors for the purpose of sending certain tax notices to taxpayers. The bill continues the exemption from public disclosure by removing the repeal date.

The bill takes effect October 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

³⁴ Section 2, ch. 2015-13, Laws of Fla.

³⁵ See, e.g., Questionnaire Response by Sarasota County Tax Collector's Office, June 2019 (on file with The Senate Committee on Finance and Tax.)

B. Public Records/Open Meetings Issues:***Vote Requirement***

Article I, s. 24(c) of the State Constitution requires two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. The bill continues a current public records exemption beyond its current date of repeal. The bill does not create or expand an exemption. Thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. The bill continues a current public records exemption without an expansion. Thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect the personal identifying information contained in a record held by a tax collector for certain purposes. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends section 197.3225 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.

FOR CONSIDERATION By the Committee on Finance and Tax

593-00923-20

20207004pb

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 197.3225, F.S.,
 4 relating to an exemption from public records
 5 requirements for taxpayer e-mail addresses held by a
 6 tax collector for certain purposes; removing the
 7 scheduled repeal of the exemption; providing an
 8 effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Section 197.3225, Florida Statutes, is amended
 13 to read:

14 197.3225 Public records exemption; taxpayer e-mail
 15 addresses.-

16 ~~(1)~~ A taxpayer's e-mail address held by a tax collector for
 17 any of the following purposes is exempt from s. 119.07(1) and s.
 18 24(a), Art. I of the State Constitution:

19 (1)(a) Sending a quarterly tax notice for prepayment of
 20 estimated taxes to the taxpayer pursuant to s. 197.222(3).

21 (2)(b) Obtaining the taxpayer's consent to send the tax
 22 notice described in s. 197.322(3).

23 (3)(c) Sending an additional tax notice or delinquent tax
 24 notice to the taxpayer pursuant to s. 197.343.

25 (4)(d) Sending a tax notice to a designated third party,
 26 mortgagee, or vendee pursuant to s. 197.344(1).

27 ~~(2) This section is subject to the Open Government Sunset
 28 Review Act in accordance with s. 119.15 and shall stand repealed
 29 on October 2, 2020, unless reviewed and saved from repeal~~

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

593-00923-20

20207004pb

30 ~~through reenactment by the Legislature.~~

31 Section 2. This act shall take effect October 1, 2020.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

**The House Oversight, Transparency & Public Management Subcommittee
The Senate Finance and Tax Committee
July 2019**

**Open Government Sunset Review Questionnaire
(Certain E-mail addresses held by Tax Collectors)**

PLEASE RETURN THIS QUESTIONNAIRE BY AUGUST 1, 2019, TO BOTH:

**Frank X. Moehrle Jr.
Attorney
House Oversight, Transparency & Public
Management Subcommittee
Frank.Moehrle@myfloridahouse.gov
Phone: (850) 717-4890**

**Robert Babin
Deputy Staff Director
Senate Finance and Tax Committee
Robert.Babin@laspbs.state.fl.us
Phone: (850) 487-5660**

In 2015, the Legislature created a public record exemption in section 197.3225, Florida Statutes, for e-mail addresses held by a tax collector for the specified purposes. This public record exemption stands repealed on October 2, 2020, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please answer the following questions. A copy of section 197.3225, Florida Statutes, and related statutory provisions are included below for your convenience.

Tax Collector's Office:

Sarasota County Tax Collector

Name of person completing the questionnaire:

Rana Moye

Title of person completing the questionnaire:

Deputy Tax Collector

Telephone number of person completing the questionnaire:

941.861.8430

E-mail address of person completing the questionnaire:

RMoye@SarasotaTaxCollector.com

Date that this questionnaire was completed:

July 30, 2019

Public Record Exemption under Review

Chapter 2011-151, Laws of Florida, amended many provisions relating to tax collectors and tax collection, and in pertinent part, authorized tax collectors to send certain notices to taxpayers via electronic means after receiving authorization from the taxpayer. In 2015, the Legislature created section 197.3225, Florida Statutes, to provide a public record exemption for e-mail addresses held by a tax collector for the following purposes:

- Sending a quarterly tax notice for prepayment of estimated taxes pursuant to section 197.222(3), Florida Statutes;
- Obtaining a taxpayer's consent to electronically send the tax notice described in section 197.322(3), Florida Statutes;
- Sending an additional tax notice or delinquent tax notice pursuant to section 197.343, Florida Statutes; and
- Sending a tax notice to designated third party, mortgagee, or vendee pursuant to section 197.344(1), Florida Statutes.

1. Does your office use e-mail or other electronic means to provide to taxpayers the notices described above?

Yes

2. Is e-mail the only "electronic means" used to deliver the notices described above? If not, please list the other electronic means used.

Yes

3. Since 2011, how many taxpayers have consented to receiving the following notices electronically?

a. Quarterly tax notices for prepayment of estimated taxes pursuant to section 197.222(3), Florida Statutes.

1,000

b. Tax notices pursuant to section 197.322(3), Florida Statutes.

26,000

c. Additional tax notices or delinquent tax notices pursuant to section 197.343, Florida Statutes.

Same as 3 a & b

d. Tax notices to designated third parties, mortgagees, or venders, pursuant to section 197.344(1), Florida Statutes.

- 3,200 eBills sent to a registered agent a.k.a. someone other than the owner who is enrolled to receive the eBill

- 61,200 electronic notification to mortgage or escrow companies payers

4. Does your office collect or use e-mail addresses for any other purpose than those specified above? If "yes":

a. For what purposes are the e-mail addresses collected?

County Business Tax eBilling, Certificate holder communication, Tourist Development communication

b. Because the public record exemption only protects e-mail addresses for the above-specified reasons, how does your office distinguish between those e-mail addresses that

are protected under the public record exemption and those that are not protected? For example, does your office maintain a separate list?

Emails are maintained in different lists or databases, based on specific use

- c. Can a taxpayer's e-mail address be on multiple lists (for example, be exempt for the above-specified purposes and be considered public record when used for another reason)?

Yes

5. How does your office maintain the e-mail addresses that are collected?

Addresses are maintained in our tax software system

6. Has your office received a public record request for e-mail addresses?

Yes

- a. If "yes," please describe the entities requesting such information, if available, and how many requests were received each year since July 1, 2015.

- i. April 2015, just prior to effective date of SB200 creating §197.3225 exempting email disclosure, Local TV reporter requesting all tax payer email addresses, and associated information, in databases
- ii. July 2017 – Individual requesting information pertaining to tax certificate bidders
- iii. August 2017 – Individual requesting information pertaining to tax certificate holder of expired/voided liens
- iv. September 2017 – Individual requesting master bidder list
- v. April 2019 - Individual requesting personal contact information for Tax Collector employees

- b. If "yes," were the e-mail addresses released? Please explain.

- i. Yes
- ii. Yes
- iii. Yes
- iv. Yes
- v. Personal email was not disclosed under §119.071(4)(d)2.a; work email was disclosed

7. Has your office had any difficulties interpreting or applying the public record exemption? Please explain.

No

8. Does any other state or federal law protect a taxpayer's e-mail address? If "yes":

Yes

- a. Please provide the specific state or federal citation for each exemption and specify the types of information each state or federal law protects.

Driver Privacy Protection Act and FS 119.071(2) – related to motor vehicle and driver's license information protection.

§213.053 - Tourist Development Tax Information

- b. Please explain which exemption your office relies upon when responding to a public record request that would include taxpayer e-mail addresses.

see 8a

- c. Can the public record exemption for taxpayer e-mail addresses be repealed or merged with the other exemption(s)? Please explain.

n/a

9. Has your office ever been involved in litigation over the public record exemption under review? If “yes,” please explain and provide the appropriate case citations.

No

10. Has your office received complaints about the public record exemption? If “yes,” please explain.

No

11. Which of the following actions does your agency recommend the Legislature take (Please select one):

- Repeal the public records exemption
- Reenact the public records exemption as is
- Reenact the public records exemption with changes

12. Please provide a brief explanation of your recommendation in question 11.

Currently, there is no public record exemption of taxpayer email addresses used in conjunction with electronic billing of the **Local Business Tax** as explained in F.S. 205. Tax Collectors may also use electronic billing for the local business tax, and currently, there is nothing explicitly in place which protects those email addresses from being used in a malicious manner. The same potential for fraud that exists for property tax ebilling exists for business tax ebilling; therefore, legislation is needed to protect these emails from potential fraud, scams, theft of business information or invasive contacts.

13. Please provide any additional comments you may have regarding the public record exemption under review.

Public Record Exemption under Review

197.3225 Public records exemption; taxpayer e-mail addresses.—

(1) A taxpayer’s e-mail address held by a tax collector for any of the following purposes is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) Sending a quarterly tax notice for prepayment of estimated taxes to the taxpayer pursuant to s. 197.222(3).

(b) Obtaining the taxpayer’s consent to send the tax notice described in s. 197.322(3).

(c) Sending an additional tax notice or delinquent tax notice to the taxpayer pursuant to s. 197.343.

(d) Sending a tax notice to a designated third party, mortgagee, or vendee pursuant to s. 197.344(1).

(2) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2015-13.

The following statutes are referenced in the public records exemption (section 197.3225, Florida Statutes). These statutes, or portions thereof, are included below for your convenience.

197.222 Prepayment of estimated tax by installment method.—

(3) Upon receiving a taxpayer's application for participation in the prepayment installment plan, and for those taxpayers who participated in the prepayment installment plan the previous year and who are not required to reapply, the tax collector shall send a quarterly tax notice with the discount rates provided in this section according to the payment schedule provided by the department. The postage or cost of electronic mailing shall be paid out of the general fund of the county, upon statement of the costs by the tax collector.

History.—s. 18, ch. 79-334; s. 1, ch. 79-585; ss. 1, 37, ch. 82-226; s. 14, ch. 83-215; s. 141, ch. 85-342; s. 1, ch. 89-122; s. 2, ch. 92-312; s. 1005, ch. 95-147; s. 2, ch. 96-288; s. 1, ch. 97-17; s. 72, ch. 99-2; s. 9, ch. 2011-151.

197.322 Delivery of ad valorem tax and non-ad valorem assessment rolls; notice of taxes; publication and mail.—

(3) Within 20 working days after receipt of the certified ad valorem tax roll and the non-ad valorem assessment rolls, the tax collector shall send to each taxpayer appearing on such rolls, whose address is known to him or her, a tax notice stating the amount of current taxes due, discounts allowed for early payment, and that delinquent taxes are outstanding, if applicable. Pursuant to s. 197.3632, the form of the notice of non-ad valorem assessments and notice of ad valorem taxes shall be in the form specified in s. 197.3635, notwithstanding s. 195.022. The tax collector may send such notice electronically or by postal mail. Electronic transmission may be used only with the express consent of the property owner. Electronic transmission of tax notices may be sent earlier but may not be sent later than the postal mailing of the notices. If the notice of taxes is sent electronically and is returned as undeliverable, a second notice must be sent. However, the original electronic transmission used with the consent of the property owner is the official mailing for purpose of this section. A discount period may not be extended due to a tax bill being returned as undeliverable electronically or by postal mail. The postage for mailing or the cost of electronic transmission shall be paid out of the general fund of each local governing board, upon statement of the amount by the tax collector.

History.—s. 155, ch. 85-342; s. 65, ch. 88-130; s. 4, ch. 88-216; s. 6, ch. 90-343; s. 1010, ch. 95-147; s. 26, ch. 2011-151.

197.343 Tax notices; additional notice required.—

(1) An additional tax notice shall be sent, electronically or by postal mail, by April 30 to each taxpayer whose payment has not been received. Electronic transmission of the additional tax notice may be used only with the express consent of the property owner. If the electronic transmission is returned as undeliverable, a second notice must be sent. However, the original electronic transmission used with the consent of the property owner is the official notice for the purposes of this subsection. The notice shall include a description of the property and a statement that if the taxes are not paid:

- (a) For real property, a tax certificate may be sold; and
- (b) For tangible personal property, the property may be sold.

(2) When the taxes under s. 193.481 on subsurface rights become delinquent and a tax certificate is to be sold under this chapter, a notice of the delinquency shall be sent to the owner of the fee to which these subsurface rights are attached. The additional notice may be transmitted electronically only with the express consent of the fee owner. If the electronic transmission is returned as undeliverable, a second notice must be sent. However, the original electronic transmission used with the consent of the property owner is the official notice for the purposes of this subsection. On the day of the tax sale, the fee owner shall have the right to purchase the tax certificate at the maximum rate of interest provided by law before bids are accepted for the sale of such certificate.

(3) The tax collector shall send such additional notices as he or she considers proper and necessary or as may be required by reasonable rules of the department. An additional notice may be transmitted electronically only with the express consent of the property owner. If the notice of taxes is sent electronically and is returned as undeliverable, a second notice shall be sent. However, an original electronic transmission used with the consent of the property owner is the official mailing for purpose of this section.

History.—s. 160, ch. 85-342; s. 5, ch. 88-146; s. 13, ch. 93-132; s. 1011, ch. 95-147; s. 3, ch. 96-288; s. 32, ch. 2000-151; s. 6, ch. 2001-137; s. 2, ch. 2009-130; s. 28, ch. 2011-151.

197.344 Lienholders; receipt of notices and delinquent taxes.—

(1) When requested in writing, a tax notice shall be sent according to the following procedures:

(a) Upon request by any taxpayer who is 60 years old or older, the tax collector shall send the tax notice to a third party designated by the taxpayer. A duplicate copy of the notice shall be sent to the taxpayer.

(b) Upon request by a mortgagee stating that the mortgagee is the trustee of an escrow account for ad valorem taxes due on the property, the tax notice shall be sent to such trustee.

When the original tax notice is sent to such trustee, the tax collector shall send a duplicate notice to the owner of the property with the additional statement that the original has been sent to the trustee.

(c) Upon request by a vendee of an unrecorded or recorded contract for deed, the tax collector shall send a duplicate notice to such vendee.

The tax collector may establish cutoff dates, periods for updating the list, and any other reasonable requirements to ensure that the tax notices are sent to the proper party on time. Notices shall be sent electronically or by postal mail. However, electronic transmission may be used only with the express consent of the person making the request. If the electronic transmission is returned as undeliverable, a second notice must be sent. However, the original electronic transmission used with the consent of the requester is the official notice for the purpose of this subsection.

(2) On or before May 1 of each year, the holder or mortgagee of an unsatisfied mortgage, lienholder, or vendee under a contract for deed, upon filing with the tax collector a description of property so encumbered and paying a service charge of \$2, may request and receive information concerning any delinquent taxes appearing on the current tax roll and certificates issued on the described property. Upon receipt of such request, the tax collector shall furnish the following information within 60 days following the tax certificate sale:

- (a) The description of property on which certificates were sold.
- (b) The number of each certificate issued and to whom.
- (c) The face amount of each certificate.
- (d) The cost for redemption of each certificate.

(3) On or before May 1 of each year, the holder or mortgagee of an unsatisfied mortgage or lien upon personal property, upon filing with the tax collector a description of the personal property encumbered by the mortgage or lien and the name and address of the owner of such property, and upon paying a service charge of \$2, may request and receive information concerning any delinquent taxes appearing on the current tax roll for such property as is described as provided in this subsection or as may be owned by the named taxpayer. Upon receipt of such request, the collector shall furnish the following information to the mortgagee or lienholder before April 25 of the following year:

- (a) A description of property against which taxes are assessed.
- (b) The amount of taxes and costs owed.

History.—s. 161, ch. 85-342; s. 8, ch. 98-139; s. 29, ch. 2011-151.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/13/19

Meeting Date

SB7004

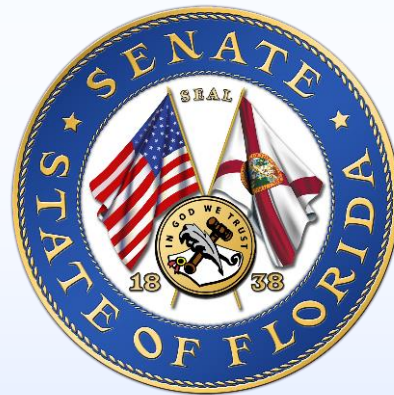
*Bill Number (if applicable)*Topic Email Addresses Held by Tax Collectors*Amendment Barcode (if applicable)*Name Timothy R. QuallsJob Title LobbyistAddress 216 South Monroe StreetPhone 850-222-7206*Street*TallahasseeFL32301Email tqualls@yvlaw.net*City**State**Zip*Speaking: For Against InformationWaive Speaking: In Support Against
*(The Chair will read this information into the record.)*Representing Florida Tax Collectors AssociationAppearing at request of Chair: Yes NoLobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Tax Cuts and Jobs Act and Florida's Corporate Income Tax



Committee on Finance and Tax
November 13, 2019

Florida Corporate Income Tax

- 5.5% tax on Florida Net Income
- “C” corporations and financial institutions
- \$50,000 exemption
- To ease compliance and administration, Florida uses the federal calculation of a taxpayer’s income, with some adjustments.
- Florida’s connection to the federal calculation of income is maintained by Florida’s annual adoption of the Internal Revenue Code as of January 1, each year (the “Piggyback” bill).



Effect of Tax Cuts and Jobs Act on Florida – Overview

- The TCJA became law on December 22, 2017.
- The TCJA increased the amount of income subject to Florida's Corporate Income Tax:
 - New sources of income (foreign source) were included, and
 - A number of deductions were repealed or limited.
- Florida's net Corporate Income Tax receipts significantly increased as a result; the February 2018 estimate of FY 18-19 net receipts was \$2.17 billion; actual was \$2.87 billion.



Florida's Reaction

- HB 7093 (2018):
 - Adopted the Internal Revenue Code as of January 1, 2018; thus, it adopted the changes made by the Tax Cuts and Jobs Act.
 - Decoupled from the bonus depreciation provisions of the TCJA, and, as in prior years, required bonus depreciation to be “spread” over a 7-year period.
 - Provided for refunds and a 1-year tax rate adjustment if FY 18-19 receipts exceeded the February 2018 REC estimate by more than 7 percent.
 - Required the Department of Revenue to study the effects of the TCJA on Florida's Corporate Income Tax, hold public workshops, and file a report by February 1, 2019. This report was filed and discussed during the 2019 session.



Florida's Reaction (cont.)

- HB 7127 (2019):
 - Adopted the Internal Revenue Code as of January 1, 2019.
 - Decoupled from the Global Intangible Low-Taxed Income provisions of the TCJA.
 - Extended the refund and rate adjustment provisions adopted during the 2018 session for two additional years. The tax returns to 5.5% for taxable years beginning on or after January 1, 2022.
 - Required taxpayers to report specified information relating to TCJA provisions to the Department of Revenue.



Current Expectations

- Based on current estimates, a refund of FY 18-19 excess net collections will occur by May 1, 2020. The refund, \$543.2 million, will be paid to each taxpayer with a final tax liability above \$0, in proportion to how much the taxpayer contributed to total final tax liability.
- Based on current estimates, the corporate income tax rate for taxable years beginning January 1, 2019, through December 31, 2021, will be 4.458%, after which the rate will return to 5.5%.
- No further refunds of excess collections or rate reductions are estimated to occur.



Current Expectations

- The Revenue Estimating Conference updated the Corporate Income Tax estimates on August 14, 2019. The following information details the current estimates.

	Feb. 18 Est. + 7%	Net Collections	Refund	Impact of Rate Change
FY 18-19	\$2,325 million	\$2,869m Actual	NA	NA
FY 19-20	\$2,339 million	\$1,897m Estim.	(\$543.2m)	(\$560.3m)
FY 20-21	\$2,391 million	\$2,346m Estim.	\$0	(\$704.5m)
FY 21-22	NA	\$2,689m Estim.	\$0	(\$427.3m)
FY 22-23	NA	\$3,071m Estim.	\$0	(\$68m)

- There are lingering effects of the rate change in FYs 23-24 and 24-25; however, the annual fiscal impact is less than (\$10m).



Significant Issues

- Bonus Depreciation – 7-Year Subtraction
- Interest Limitation – Interest deduction is now limited to 30% of “adjusted taxable income.”
- Net Operating Loss Limitation – Net operating losses are now limited to 80% of taxable income.



Questions?



THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/13/19
Meeting Date

Bill Number (if applicable)

Topic Bonus Depreciation/Corporate Income Tax

Amendment Barcode (if applicable)

Name Doug Bell

Job Title _____

Address 119 S Monroe St
Street

Phone 850 205 9000

TLH FL
City State Zip

Email doug.bell@whdfirm.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Avis Budget Group

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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CourtSmart Tag Report

Room: SB 401

Case No.:

Type:

Caption: Senate Finance and Tax Committee Judge:

Started: 11/13/2019 2:30:59 PM

Ends: 11/13/2019 3:13:44 PM Length: 00:42:46

2:30:57 PM Meeting called to order by Chair Gainer
2:31:03 PM Roll call
2:31:07 PM Quorum present announced
2:31:25 PM Comments from Chair Gainer
2:31:48 PM Introduction of Tab 1 by Chair Gainer
2:31:59 PM Explanation of Tab 1 - SPB 7004, Open Government Sunset Review/Taxpayer E-mail Addresses Held by a Tax Collector presented by Robert Babin, Deputy Staff Director
2:32:59 PM Comments from Chair Gainer
2:33:08 PM Question from Senator Powell
2:33:22 PM Response from Mr. Babin
2:34:19 PM Speaker Timothy Qualls, Florida Tax Collectors Association
2:35:19 PM Question from Senator Gruters
2:35:29 PM Response from Mr. Qualls
2:36:02 PM Question from Senator Powell
2:36:14 PM Response from Mr. Qualls
2:37:29 PM Comments from Chair Gainer
2:37:40 PM Roll call
2:37:59 PM SPB 7004 reported favorably
2:38:26 PM Introduction of Tab 2 by Chair Gainer
2:38:40 PM Update on Tab 2 - Corporate Income Tax presented by Robert Babin, Deputy Staff Director
2:48:14 PM Question from Senator Gruters
2:48:24 PM Response from Mr. Babin
2:48:44 PM Follow-up question from Senator Gruters
2:48:52 PM Response from Mr. Babin
2:49:12 PM Follow-up question from Senator Gruters
2:49:19 PM Response from Mr. Babin
2:50:05 PM Follow-up question from Senator Gruters
2:50:16 PM Response from Mr. Babin
2:50:23 PM Additional question from Senator Gruters
2:50:31 PM Response from Mr. Babin
2:50:48 PM Continued Update by Mr. Babin
2:54:17 PM Question from Senator Gruters
2:54:24 PM Response from Mr. Babin
2:54:59 PM Follow-up question from Senator Gruters
2:55:07 PM Response from Mr. Babin
2:56:15 PM Comments from Senator Gruters
2:56:58 PM Question from Senator Bradley
2:57:08 PM Response from Mr. Babin
2:58:31 PM Follow-up question from Senator Bradley
2:58:48 PM Response from Mr. Babin
2:59:46 PM Question from Senator Pizzo
3:00:25 PM Response from Mr. Babin
3:02:56 PM Follow-up question from Senator Pizzo
3:03:08 PM Response from Mr. Babin
3:03:56 PM Follow-up question from Senator Pizzo
3:04:11 PM Response from Mr. Babin
3:04:52 PM Follow-up question from Senator Pizzo
3:05:04 PM Response from Mr. Babin
3:06:18 PM Follow-up question from Senator Pizzo
3:06:27 PM Response from Mr. Babin
3:06:44 PM Response from Senator Gruters
3:07:07 PM Speaker Doug Bell, Avis Budget Group

3:09:30 PM Question from Chair Gainer
3:09:36 PM Response from Mr. Bell
3:09:47 PM Question from Senator Pizzo
3:09:59 PM Response from Mr. Bell
3:10:23 PM Follow-up question from Senator Pizzo
3:10:31 PM Response from Jose
3:11:36 PM Follow-up question from Senator Pizzo
3:11:44 PM Response from Senator Gruters
3:12:33 PM Follow-up question from Senator Pizzo
3:12:44 PM Response from Senator Gruters
3:12:58 PM Comments from Chair Gainer
3:13:28 PM Senator Gruters move to adjourn, meeting adjourned