

By Senator Ostalkiewicz

12-1538-98

1 A bill to be entitled
2 An act relating to financial matters (RAB);
3 amending s. 72.011, F.S.; providing for
4 adoption of procedures for notifying a taxpayer
5 of an assessment or denial of a refund;
6 amending s. 199.052, F.S.; prescribing
7 conditions under which a trust will be
8 considered a Florida-situs trust; amending s.
9 213.21, F.S.; providing for conferences
10 relating to denial of refunds; providing for
11 closing agreements; amending s. 220.222, F.S.;
12 prescribing conditions under which a taxpayer
13 will be considered not in compliance with s.
14 220.32, F.S., for purposes of granting
15 extensions; amending s. 624.515, F.S.;
16 providing for determination of the percentage
17 of fire insurance within an insurance line;
18 amending s. 896.102, F.S.; authorizing the
19 Department of Revenue to adopt rules for
20 reporting certain business transactions;
21 providing an effective date.

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23 Be It Enacted by the Legislature of the State of Florida:
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25 Section 1. Paragraph (b) of subsection (2) of section
26 72.011, Florida Statutes, is amended to read:
27 72.011 Jurisdiction of circuit courts in specific tax
28 matters; administrative hearings and appeals; time for
29 commencing action; parties; deposits.--

30 (2)
31

1 (b) The date on which an assessment or a denial of
2 refund becomes final and procedures ~~a procedure~~ by which a
3 taxpayer must be notified of the assessment or of the denial
4 of refund must be established:

5 1. By rule adopted by the Department of Revenue;

6 2. With respect to assessments or refund denials under
7 chapter 207, by rule adopted by the Department of Highway
8 Safety and Motor Vehicles;

9 3. With respect to assessments or refund denials under
10 chapters 210, 550, 561, 562, 563, 564, and 565, by rule
11 adopted by the Department of Business and Professional
12 Regulation; or

13 4. With respect to taxes that a county collects or
14 enforces under s. 125.0104(10) or s. 212.0305(5), by an
15 ordinance that may additionally provide for informal dispute
16 resolution procedures in accordance with s. 213.21.

17 Section 2. Subsection (5) of section 199.052, Florida
18 Statutes, is amended to read:

19 199.052 Annual tax returns; payment of annual tax.--

20 (5) The trustee of a Florida-situs trust is primarily
21 responsible for returning the trust's intangible personal
22 property and paying the annual tax on it.

23 (a) A trust has a Florida situs when:

24 1. All trustees are residents of the state; or

25 2. There are three or more trustees sharing equally in
26 the ownership, management, or control of the trust's
27 intangible property, and the majority of the trustees are
28 residents of this state.

29 (b) A portion of the trust has Florida situs when
30 there are two trustees, one a resident of this state and one a
31 nonresident, and they share equally in the ownership,

1 management, or control of the trust's intangible property. The
2 tax on such property shall be based on the value apportioned
3 between them.

4 (c) If there is more than one trustee in the state,
5 only one tax return for the trust must be filed.

6 (d) The trust's beneficiaries, however, may
7 individually return their equitable shares of the trust's
8 intangible personal property and pay the tax on such shares,
9 in which case the trustee need not return such property or pay
10 such tax, although the department may require the trustee to
11 file an informational return.

12 Section 3. Paragraph (a) of subsection (1) and
13 paragraph (a) of subsection (2) of section 213.21, Florida
14 Statutes, are amended to read:

15 213.21 Informal conferences; compromises.--

16 (1)(a) The Department of Revenue may adopt rules for
17 establishing informal conference procedures within the
18 department for resolution of disputes relating to assessment
19 of taxes, interest, ~~and penalties~~, and the denial of refunds
20 and for informal hearings under ss. 120.569 and 120.57(2).

21 (2)(a) The executive director of the department or his
22 or her designee is authorized to enter into ~~a written~~ closing
23 agreements ~~agreement~~ with any taxpayer settling or
24 compromising the taxpayer's liability for any tax, interest,
25 or penalty assessed under any of the chapters specified in s.
26 72.011(1). Such agreements shall be in writing when the amount
27 of tax, penalty, or interest compromised exceeds \$30,000 or
28 for lesser amounts when the department deems it appropriate or
29 when requested by the taxpayer.When such a closing agreement
30 has been approved by the department and signed by the
31 executive director or his or her designee and the taxpayer, it

1 shall be final and conclusive; and, except upon a showing of
2 fraud or misrepresentation of material fact or except as to
3 adjustments pursuant to ss. 198.16 and 220.23, no additional
4 assessment may be made by the department against the taxpayer
5 for the tax, interest, or penalty specified in the closing
6 agreement for the time period specified in the closing
7 agreement, and the taxpayer shall not be entitled to institute
8 any judicial or administrative proceeding to recover any tax,
9 interest, or penalty paid pursuant to the closing agreement.
10 The department is authorized to delegate to the executive
11 director the authority to approve any such closing agreement
12 resulting in a tax reduction of \$100,000 or less.

13 Section 4. Paragraph (c) is added to subsection (2) of
14 section 220.222, Florida Statutes, to read:

15 220.222 Returns; time and place for filing.--

16 (2)

17 (c) For purposes of this subsection, a taxpayer is not
18 in compliance with the requirements of s. 220.32 if the
19 taxpayer underpays the required payment by more than \$500 or
20 10 percent of the tax shown on the return when filed.

21 Section 5. Subsection (1) of section 624.515, Florida
22 Statutes, is amended to read:

23 624.515 State Fire Marshal regulatory assessment and
24 surcharge; levy and amount.--

25 (1)(a) In addition to any other license or excise tax
26 now or hereafter imposed, and such taxes as may be imposed
27 under other statutes, there is hereby assessed and imposed
28 upon every domestic, foreign, and alien insurer authorized to
29 engage in this state in the business of issuing policies of
30 fire insurance, a regulatory assessment in an amount equal to
31 1 percent of the gross amount of premiums collected by each

1 such insurer on policies of fire insurance issued by it and
2 insuring property in this state. The assessment shall be
3 payable annually on or before March 1 to the Department of
4 Revenue by the insurer on such premiums collected by it during
5 the preceding calendar year.

6 (b) When it is impractical, due to the nature of the
7 business practices within the insurance industry, to determine
8 the percentage of fire insurance contained within a line of
9 insurance written by an insurer on risks located or resident
10 in Florida, the Department of Revenue may establish by rule
11 such percentages for the industry. The Department of Revenue
12 may also amend the percentages as the insurance industry
13 changes its practices concerning the portion of fire insurance
14 within a line of insurance.

15 Section 6. Subsection (3) of section 896.102, Florida
16 Statutes, is amended to read:

17 896.102 Currency more than \$10,000 received in trade
18 or business; report required; noncompliance penalties.--

19 (3) The Department of Revenue may adopt rules and
20 guidelines to administer and enforce these reporting
21 requirements.

22 Section 7. This act shall take effect July 1, 1998.
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SENATE SUMMARY

Requires that multiple procedures for notifying a taxpayer of an assessment or the denial of a refund be established by rule. Provides criteria for determining when a trust is a Florida-situs trust for intangible tax purposes. Revises guidelines for closing agreements between the Department of Revenue and taxpayers. Provides that certain corporate income taxpayers will not be entitled to an extension of the time for filing when they excessively underpay taxes due. Authorizes the Department of Revenue to establish by rule the percentage of a line or lines of insurance that constitutes fire insurance, for purposes of taxation. Authorizes the department to adopt rules to enforce requirements that business transactions involving more than \$10,000 in currency be reported.