

By the Committee on Ways and Means; and Senator Ostalkiewicz

301-2067A-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.

22
23 Be It Enacted by the Legislature of the State of Florida:
24

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;

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; or

29 3. Trustees consist of both residents and nonresidents
30 and management or control of the trust is with a resident
31 trustee.

1 (b) When trustees consist of both residents and
2 nonresidents and management or control is with a nonresident
3 trustee, the trust does not have Florida situs and no return
4 is necessary by any resident trustee.

5 (c) A portion of the trust has Florida situs when
6 there are two trustees, one a resident of this state and one a
7 nonresident, and they share equally in the ownership,
8 management, or control of the trust's intangible property. The
9 tax on such property shall be based on the value apportioned
10 between them.

11 (d) If there is more than one trustee in the state,
12 only one tax return for the trust must be filed.

13 (e) Nothing in this subsection shall be construed so
14 as to levy the annual tax on trust assets where the settlor is
15 not a Florida resident.

16 (f) The trust's beneficiaries, however, may
17 individually return their equitable shares of the trust's
18 intangible personal property and pay the tax on such shares,
19 in which case the trustee need not return such property or pay
20 such tax, although the department may require the trustee to
21 file an informational return.

22 Section 3. Paragraph (a) of subsection (1) and
23 paragraph (a) of subsection (2) of section 213.21, Florida
24 Statutes, are amended to read:

25 213.21 Informal conferences; compromises.--

26 (1)(a) The Department of Revenue may adopt rules for
27 establishing informal conference procedures within the
28 department for resolution of disputes relating to assessment
29 of taxes, interest, and penalties and the denial of refunds,
30 and for informal hearings under ss. 120.569 and 120.57(2).

31

1 (2)(a) The executive director of the department or his
2 or her designee is authorized to enter into ~~a written~~ closing
3 agreements ~~agreement~~ with any taxpayer settling or
4 compromising the taxpayer's liability for any tax, interest,
5 or penalty assessed under any of the chapters specified in s.
6 72.011(1). Such agreements shall be in writing when the amount
7 of tax, penalty, or interest compromised exceeds \$30,000 or
8 for lesser amounts when the department deems it appropriate or
9 when requested by the taxpayer.When ~~such~~ a written closing
10 agreement has been approved by the department and signed by
11 the executive director or his or her designee and the
12 taxpayer, it shall be final and conclusive; and, except upon a
13 showing of fraud or misrepresentation of material fact or
14 except as to adjustments pursuant to ss. 198.16 and 220.23, no
15 additional assessment may be made by the department against
16 the taxpayer for the tax, interest, or penalty specified in
17 the closing agreement for the time period specified in the
18 closing agreement, and the taxpayer shall not be entitled to
19 institute any judicial or administrative proceeding to recover
20 any tax, interest, or penalty paid pursuant to the closing
21 agreement. The department is authorized to delegate to the
22 executive director the authority to approve any such closing
23 agreement resulting in a tax reduction of \$100,000 or less.

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

26 220.222 Returns; time and place for filing.--

27 (2)

28 (c) For purposes of this subsection, a taxpayer is not
29 in compliance with the requirements of s. 220.32 if the
30 taxpayer underpays the required payment by more than the
31

1 greater of \$2000 or 30 percent of the tax shown on the return
2 when filed.

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

5 624.515 State Fire Marshal regulatory assessment and
6 surcharge; levy and amount.--

7 (1)(a) In addition to any other license or excise tax
8 now or hereafter imposed, and such taxes as may be imposed
9 under other statutes, there is hereby assessed and imposed
10 upon every domestic, foreign, and alien insurer authorized to
11 engage in this state in the business of issuing policies of
12 fire insurance, a regulatory assessment in an amount equal to
13 1 percent of the gross amount of premiums collected by each
14 such insurer on policies of fire insurance issued by it and
15 insuring property in this state. The assessment shall be
16 payable annually on or before March 1 to the Department of
17 Revenue by the insurer on such premiums collected by it during
18 the preceding calendar year.

19 (b) When it is impractical, due to the nature of the
20 business practices within the insurance industry, to determine
21 the percentage of fire insurance contained within a line of
22 insurance written by an insurer on risks located or resident
23 in Florida, the Department of Revenue may establish by rule
24 such percentages for the industry. The Department of Revenue
25 may also amend the percentages as the insurance industry
26 changes its practices concerning the portion of fire insurance
27 within a line of insurance.

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

30 896.102 Currency more than \$10,000 received in trade
31 or business; report required; noncompliance penalties.--

1 (3) The Department of Revenue may adopt rules and
2 guidelines to administer and enforce these reporting
3 requirements.

4 Section 7. This act shall take effect July 1, 1998.

5
6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 SB 1698

9 This committee substitute adds an issue to the bill beyond the
10 approval of current Department of Revenue rules. With respect
11 to taxation of trusts, it provides that trusts are not subject
12 to intangibles tax if the settlor is not a Florida resident.
13 It also provides a higher threshold than provided in current
14 rules before penalizing taxpayers that underpay their
15 estimated corporate income tax.