

**STORAGE NAME:** h3293.tu

**DATE:** February 10, 1998

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
TOURISM  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 3293

**RELATING TO:** Sales and Use Taxes

**SPONSOR(S):** Representative Barreiro

**COMPANION BILL(S):** SB 688 (S)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) TOURISM
  - (2) FINANCE & TAXATION
  - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
  - (4)
  - (5)
- 

**I. SUMMARY:**

House Bill 3293 provides a sales and use tax exemption for items purchased in a specific location in Florida by nonresident cruise ship passengers. The bill provides a number of other parameters to further restrict the application of this exemption and provides some measures by which to enforce those limitations.

The City of Miami's Downtown Development Authority commissioned an independent consultant, Lambert Advisory, to determine what economic impact the sales tax exemption proposed in this legislation would have on state and local revenues. The consultant estimated that the fiscal impact on the state's sales tax collections from the provisions of this bill would range from (\$996,000) in 1997 to (\$1,700,000) in 2001. The impact on county sales tax revenues was estimated to range from (\$83,000) in 1997 to (\$142,000) in 2001; however, the provisions of this bill do not address an exemption from sales taxes imposed by the county. These projections were made based on passage of the bill in 1997. The consultant also projected a 75 percent growth in retail sales in the affected area as a result the provisions of this bill.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 212, F.S., authorizes the assessment and collection of state sales taxes. This chapter also includes a variety of conditions under which the taxes are either not required to be collected by dealers at the point of sale or are refunded or credited to the taxpayer. The majority of exemptions from Florida's sales and use tax are found in s. 212.08, F.S.

A "dealer" is generally defined as a person who sells at retail or provides for rental items of tangible personal property or as a person who sells admissions. Section 212.06, F.S., provides that dealers may be exempted from collecting sales taxes on tangible personal property in a variety of situations. Section 212.06(5)(a)1., F.S., provides that it is not the intention of Chapter 212, F.S., to impose state sales taxes on Florida goods imported, produced, or manufactured for export outside of the state. This subparagraph does specifically state that every retail sale made to a person physically present at the time of the sale will be presumed to have been delivered in this state [and therefore subject to state sales tax].

Section 212.06(5)(a)2., F.S., provides that, notwithstanding subparagraph 1., sales tax does apply to each sale of tangible personal property to be transported to a cooperating state by way of a mail order. Subparagraph 2. further provides that dealers do not have to collect taxes on the sale of tangible personal property if the Florida dealer gets certain information from a dealer who is registered in another state, who is purchasing the item for resale, or who is otherwise not required to pay the tax on the transaction.

Other subsections of s. 212.06, F.S., do provide for dealer relief from use and consumption taxes if the property has been taxed in another state at the same rate that it would have been taxed in Florida or if the property has been brought into Florida after 6 months or longer use in another state. Additionally, s. 212.06, F.S., does contain provisions exempting religious publications and paraphernalia, and promotional materials from the sales and use taxes imposed in Chapter 212, F.S.

The Downtown Development Authority of the City of Miami is a governing entity authorized for creation under Chapter 65-1090, LOF. This entity now exists under the authority of an ordinance in Dade County due to the provisions of Chapter 71-29, LOF, which repealed Chapter 65-1090, LOF, and provided that the authority granted by that law would be designated by county ordinance.

Independent special districts are authorized for creation by statute under Chapter 189, F.S., and defined in s. 189.403(3), F.S. The Tampa Port Authority is such an independent special district.

Section 125.011(1), F.S., defines a county as operating under a home rule charter adopted pursuant to certain sections of the Constitution of the State of Florida. There are currently three counties, Dade, Monroe and Hillsborough, which fall under the definition in s. 125.011(1), F.S.

Miami's Downtown Development Authority has had an ongoing interest in revitalizing its economic base and, in 1996, commissioned a study by the Lambert Advisory on the

economic impact of "rolling back" the sales taxes in downtown Miami for cruise ship passengers. The current estimate of cruise ship passengers passing through the Port of Miami is 3 million annually. The study concluded that based upon a 10% growth projection figure for cruise ship passengers between 1997 and 2001, the proposed sales tax exemptions targeted by the DDA would have a state revenue impact of from (\$996,000) in 1997 to (\$1,700,000) in 2001. The impact on county sales tax revenues was estimated to range from (\$83,000) in 1997 to (\$142,000) in 2001. The study also projected that non food and beverage retail sales would grow by 75 percent as a result of a tax exemption incentive to shop in the downtown area. Finally, the study predicted an expected growth of 62,000 square feet of additional retail space demanded with an accompanying growth of 250 primary jobs.

**B. EFFECT OF PROPOSED CHANGES:**

House Bill 3293 amends s. 212.06, F.S., to provide nonresident cruise ship passengers with a limited exemption from the sales and use taxes imposed on tangible personal property under Chapter 212, F.S. Several parameters have been established by the bill to limit the application of the exemption:

1. The exemption is only applicable in a specified area of the state described as being an independent special district as defined under s. 189.403(3), F.S., within a home rule charter county as defined in s. 125.011(1), F.S., which area also happens to include boundaries contiguous to a large body of water and the right-of-way to a rapid transportation system. Although this description is meant to fit Miami's Downtown Development Authority (DDA) area and potentially other areas in Monroe or Hillsborough Counties, there is a question as to whether the DDA can be defined as an independent special district.
2. Exemptions do not apply to the sale of food or drinks, sales made through vending or amusement machines, the lease or rental of tangible personal property, or the use of tangible personal property in Florida in any employment, trade, business, or profession.
3. The purchaser may not be a resident of Florida.
4. The purchaser must, at the point of sale, present the dealer with a valid arrival-departure card, picture identification, and a signed and dated statement made under oath which includes the purchaser's name, address, cruise arrival-departure card number and any other information required by the Department of Revenue.
5. The exempt purchase must be made by the purchaser within 2 days prior to his or her departure or 2 days after his or her arrival on a boat cruise transporting persons for hire in foreign commerce. The bill stipulates that the boat cruises which transport passengers outside of the boundaries of Florida must dock in destination points outside of the state in order to be considered transporting persons for hire in foreign commerce. The bill does not stipulate whether the passengers must also disembark in such a port.
6. Purchasers must remove exempt purchases from the state within 30 days after the date of purchase.

This bill requires the "person" engaged in the business of transporting persons for hire in foreign commerce (cruise operator) to issue the cruise arrival-departure card to the passenger. This card must contain:

1. Passenger's name and address.
2. Applicable passport or visa number.
3. Cruise owner's name and address.
4. Name of the port from which the cruise has or will originate and the date of departure.
5. Name of the port of termination and the scheduled date of arrival.
6. Unique number which individually identifies the passenger issued the card.

The cruise operator is required to keep records of all those to whom cards are issued. The bill requires the cruise operator to notify the Department of Revenue, within 30 days of issuance, of the name and address of any person issued a cruise arrival-departure card that is not a passenger on the cruise for which the card was received. It appears that this provision is intended to address a situation in which a passenger books passage, receives a card in advance and for some reason does not take the trip. However, the language in the bill does not clearly indicate such a situation.

Several enforcement measures are provided by the bill to forestall the fraudulent evasion of the sales and use tax exemptions included in the bill:

1. A person who knowingly aids or assists in making a false or fraudulent statement in connection with the provisions of this bill may be prosecuted for committing a felony of the third degree in addition to being liable for the amount of the tax and a penalty of 200 percent of the tax.
2. A person who issues a false or fraudulent card to a passenger for the purpose of evading the tax is liable for \$1000 per violation.
3. A purchaser who fails to remove the property from the state within 30 days will be liable for use tax on the cost of the property plus the payment of a penalty equal to the use tax due on the property.

**C. APPLICATION OF PRINCIPLES:**

1. Less Government:

- a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. The Department of Revenue will be responsible for making any rules needed for the administration of this bill and for prosecuting any violations of the provisions of the bill. Additionally, cruise operators will be responsible for administering the distribution of cruise arrival-departure cards to cruise passengers. Finally, Florida dealers could have additional bookkeeping measures to employ to provide documentation to the Department of Revenue regarding their compliance with the provisions of the bill.

- (3) any entitlement to a government service or benefit?

N/A

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

Yes. This bill would eliminate certain state sales and use taxes paid by non-resident cruise passengers.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Indirectly, cruise passengers who purchase non-exempt items are contributing to Florida's general sales tax revenue which would be appropriated to administer the provisions of this bill.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 212.06, F.S.

E. SECTION-BY-SECTION RESEARCH:

Not required.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The Department of Revenue has not projected a need for additional staff to administer the provisions of this bill at this time.

2. Recurring Effects:

Indeterminate at this time.\*

3. Long Run Effects Other Than Normal Growth:

Indeterminate at this time.

4. Total Revenues and Expenditures:

Indeterminate at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate at this time.

2. Recurring Effects:

Indeterminate at this time.\*

3. Long Run Effects Other Than Normal Growth:

Indeterminate at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Cruise ship operators will experience some costs related to the issuance of the cruise arrival-departure cards.

2. Direct Private Sector Benefits:

Retail establishments located in "specified areas" are projected to experience a growth in sales due to the perceived savings resulting from tax exempt purchases.



3. Effects on Competition, Private Enterprise and Employment Markets:

Retail establishments located in "specified areas" are projected to experience an improved competitive advantage with their counterparts in other ports of call frequented by cruise ship passengers.

D. FISCAL COMMENTS:

\* The consultant hired by the City of Miami's Downtown Development Authority estimated that the fiscal impact on the state's sales tax collections from the provisions of this bill would range from (\$996,000) in 1997 to (\$1,700,000) in 2001. The impact on county sales tax revenues was estimated to range from (\$83,000) in 1997 to (\$142,000) in 2001; however, the provisions of this bill do not address an exemption from sales taxes imposed by the county. These projections were made based on passage of the bill in 1997. The consultant also projected a growth of 75 percent in retail sales in the affected area as a result the provisions of this bill.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenue.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does reduce the percentage of a state tax shared with counties and municipalities, however, that percentage is projected to be negligible.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

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VII. SIGNATURES:

COMMITTEE ON TOURISM:

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