

STORAGE NAME: h0747s1.ft

DATE: April 17, 1997

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
FINANCE AND TAXATION
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 747

RELATING TO: Tax on Sales, Use, and Other Transactions

SPONSOR(S): The Committee on Finance and Taxation and Rep. K. Pruitt

STATUTE(S) AFFECTED: Amends Chapter 212, F.S.

COMPANION BILL(S):

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

- (1) BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE YEAS 8 NAYS 0
- (2) FINANCE AND TAXATION YEAS 9 NAYS 1
- (3) GOVERNMENTAL OPERATIONS
- (4)
- (5)

I. SUMMARY:

The bill provides an exemption from Chapter 212, Florida Statutes, for certain transactions conducted by chambers of commerce. Part I, Chapter 212, Florida Statutes, provides for tax on sales or use of tangible personal property, admissions, rentals, and services. Part II, Chapter 212, Florida Statutes, provides for payment of tax on sales of motor and special fuels.

The exemption provided in the bill applies retroactively back to December 31, 1994, for all transactions where taxes were not actually paid or collected before that date. Purchases and sales by chambers occurring after December 31, 1994 are subject to the taxes imposed by Chapter 212, Florida Statutes.

The total estimated fiscal impact upon General Revenue is (\$1) million for 1997-98 and (\$.7) million for FY 1998-99. There will be an insignificant impact on the Solid Waste Management Trust Fund. The estimated fiscal impact upon local governments is (\$.1) million for both FY 1997-98 and FY 1998-99. The total estimated fiscal impact for this bill is (\$1.1) million for FY 1997-98 and (\$.8) million for FY 1998-99.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

State Sales and Use Tax

Part I, Chapter 212, F.S., provides for the taxation on transactions and the exemptions of taxation therefrom. Generally, it is the policy of the state to tax every person who engages in the business of selling tangible personal property at retail, renting or furnishing things or services, storing for use or consumption, and leasing or renting tangible personal property. The rate of taxation in Florida is six (6) percent of the sales or use price of each item or article of tangible personal property when sold at retail, computed on each taxable sale or use for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

Part II, Chapter 212, Florida Statutes, provides for taxation on sales of motor and special fuels. The tax is levied at the rate of 6% of an initially established retail price of \$1.148 per gallon, with an adjustment of the established price each January 1 by the percentage change in the average of the Consumer Price Index. The tax is collected from wholesale distributors.

The State of Florida currently offers a number of sales and use tax exemptions and refunds (e.g., exemptions for new and expanding businesses, enterprise zone exemptions and refunds, raw materials, research and development, co-generation of electricity, boiler fuels, packaging and industrial materials, as well as industry specific exemptions for agriculture, commercial space activities, motion picture and recording industry, and funds for new professional sports franchises and new spring training franchises).

There are approximately 250 chambers of commerce in Florida, including the Florida Chamber of Commerce located in Tallahassee, Florida. Purchases and sales by these chambers are currently subject to the 6 percent state sales and use tax. Depending on the nature of the event, some chamber events (e.g. annual banquets, seminars) that charge an entrance fee may also be subject to the 6 percent state sales and use tax.

LOCAL GOVERNMENT FINANCES

Part VI of Chapter 218, F.S., the Local Government Half-Cent Sales Tax Program, was created by the Legislature in 1982 to provide relief for eligible counties and municipalities from ad valorem and utility taxes in addition to providing such counties and municipalities with revenues for local programs. Eligible counties and municipalities can receive the following three distributions of state sales tax revenues collected pursuant to Part 1, Chapter 212, F.S.: (1) the ordinary distribution -- 9.653 percent of state sales tax revenue, (2) the emergency distribution -- 0.054 percent of state sales tax revenue -- for counties meeting specific criteria, and (3) the supplemental distribution -- 0.054 percent of state sales tax revenue -- for counties eligible for the emergency distribution that also have an inmate population greater than seven percent of the county's total population. For FY 1992-93 eligible municipalities received approximately \$275 million and eligible counties received approximately \$547 million under this program.

Section 212.055, F.S. allows local governments to levy the following six types of Local Discretionary Sales Surtaxes: the Charter County Transit System Surtax (up to 1%), the

Local Government Infrastructure Surtax (0.5% or 1%), the Small County Surtax (0.5% or 1%), the Indigent Care Surtax (up to 0.5%), the County Public Hospital Surtax (0.5%), and the Small County Indigent Care Surtax (0.5). Pursuant to section 212.054(2)(a), F.S., these Surtaxes apply to all transactions subject to the state tax imposed under Part 1, Chapter 212, F.S.

Given that purchases and sales by chambers of commerce are subject to the state sales tax, they are also subject to any applicable local option sales tax.

B. EFFECT OF PROPOSED CHANGES:

The bill provides that the following "transactions" conducted by a not-for-profit chamber of commerce are exempt from the sales and use tax applied in Chapter 212, Florida Statutes, for tax not actually paid or collected before December 31, 1994:

- purchases for use in operations to foster business.
- dues and fees to members.
- conduct of events for admission.
- charges to businesses for participation in trade shows and similar events.
- circulation of printed materials -- including newspapers and newsletters.
- business seminars and events to assist businesses with their operations.

Revenues derived from resales of materials routinely and directly available to any person without the assistance of a chamber of commerce do not qualify as exempt transactions.

The chambers of commerce will be able to claim amnesty from those unpaid taxes that will be exempted, as well as, receive a refund for the taxes that have already been remitted.

Transactions occurring after December 31, 1994 are subject to the sales and use tax applied by Chapter 212, Florida Statutes.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

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

N/A

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

N/A

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

N/A

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

N/A

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

N/A

(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?

No, but the bill does create amnesty for some taxes not paid on or before December 31, 1994, for chambers of commerce.

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?

N/A

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:

N/A

- (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:

N/A

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. SECTION-BY-SECTION ANALYSIS:

Section 1 provides terms and definitions for an exemption from Chapter 212, F.S., for certain transactions of chambers of commerce. Provides a definition of a "chamber of commerce" for use in this section. Delineates that the tax exemption provided in this section shall be retroactive back to December 31, 1994, for taxes not paid or collected before that date. Describes certain transactions undertaken by a chamber of commerce that are not subject to any tax imposed by Chapter 212, F.S. The bill also provides for a refund to the chambers of commerce on taxes paid that would be exempted by paragraph 2(a).

Section 2 provides that this act shall take effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

<u>Revenues</u>	<u>FY 1996-97</u>	<u>FY 1997-98</u>
General Revenue Fund	(\$1m)	(\$0.7m)
Solid Waste Management Trust Fund	(insig.)	(insig.)

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

<u>Revenues</u>	<u>FY 1996-97</u>	<u>FY 1997-98</u>
General Revenue Fund	(\$1m)	(\$0.7m)
Solid Waste Management Trust Fund	(insig.)	(insig.)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

<u>Revenues</u>	<u>FY 1996-97</u>	<u>FY 1997-98</u>
Local Government Half Cent Tax	(\$0.1m)	(\$0.1m)
Local Option Sales Surtaxes	(insig.)	(insig.)

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Eligible transactions of chambers of commerce occurring before December 31, 1994, will be exempt from the taxes imposed by Chapter 212, Florida Statutes.

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

None.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Although the bill will reduce the authority of municipalities and counties to raise revenues, the impact is expected to be insignificant and the bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

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

While the bill will reduce the amount of the Local Government Half Cent Sales Tax shared with municipalities and counties, it does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(b), Florida Constitution does not apply.

V. COMMENTS:

According to the sponsor of the bill and representatives from chambers of commerce around the state, the retroactive provision contained in the bill is intended to provide "amnesty" for chambers of commerce for certain taxable transactions dating on or before December 31, 1994.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The CS for HB 747 provides that the chambers who have paid the taxes exempted by this bill will be able to receive a refund. This analysis reflects those changes.

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VII. SIGNATURES:

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