STORAGE NAME: h0835a.grr
DATE: March 19, 1997

HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENTAL RULES AND REGULATIONS
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: HB 835

RELATING TO: Tax on Sales, Use and Other Transactions

SPONSOR(S): Representatives Ziebarth and Bitner

STATUTE(S) AFFECTED: s. 212.11, Florida Statutes

COMPANION BILL(S): SB 1502 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) GOVERNMENTAL RULES AND REGULATIONS YEAS 6 NAYS 0
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I. SUMMARY:

Current law provides that taxpayers who paid $50,000 or more in sales and use tax in the prior fiscal year are required to remit taxes by electronic funds transfer (EFT). Additionally, such taxpayers are also required to file their tax returns electronically, using an electronic data interchange (EDI). In order to file a tax return using EDI, a taxpayer must have a computer, EDI software, and a modem. The Florida Department of Revenue (DOR) estimates that the average price for the required software is $100 - $130. According to DOR, taxpayers are currently absorbing the cost of the EDI software in order to comply with the electronic filing requirement.

HB 835 authorizes, but does not require, such taxpayers to submit tax returns electronically.

This act shall take effect July 1, 1997.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Pursuant to s. 213.755, F.S.(1995), the executive director of DOR is authorized to require a taxpayer to remit taxes by electronic funds transfer (EFT) if in the prior fiscal year the taxpayer paid $50,000 or more in tax. According to DOR, there are approximately 28,000 taxpayers currently remitting by EFT.

Under ch. 212, F.S., sales and use taxes are imposed on the retail sale, storage, or use of tangible personal property. Section 212.11(1)(f), F.S. (1996 Supp), prescribes that dealers who are required to remit sales tax via EFT are also required to file sales tax returns electronically, using an electronic data interchange (EDI). This section also allows DOR to waive the requirement that returns be filed electronically if the taxpayer can demonstrate problems arising from the taxpayer's computer capabilities, data system changes, and taxpayer operating procedures. DOR estimates that approximately 18,000 taxpayers will be required to file sales and use tax returns using EDI.

EDI is the computer-to-computer exchange of data in a standard format, which replaces a traditional paper document. In order to file using EDI, a taxpayer needs a computer, EDI software, and a modem. EDI software may be purchased from an approved vendor or developed by the taxpayer. DOR estimates that the average price for the initial EDI software is $100 - $130, and the average price for an annual update is $30 - $60. This software enables the taxpayer to fill out the tax form on computer and transmit the form to a computer "mailbox" in a data center operated by a third-party service provider for the state. The data center converts the tax information into a format used by DOR and enters a verification code in the taxpayer's "mailbox". DOR can then contact the data center's computer and access the taxpayer's return. According to DOR, taxpayers are currently absorbing the entire cost of the software required in order to electronically file their tax returns.

B. EFFECT OF PROPOSED CHANGES:

HB 835 amends s. 212.11(1)(f), F.S. (1996 Supp), providing that a taxpayer who is currently required to remit taxes by EFT pursuant to s. 213.755, F.S., is no longer required to submit a tax return via EDI, but may elect to do so.

The bill deletes the provision which permits DOR to waive the requirement to make a return through EDI due to problems arising from the taxpayer's computer capabilities, data systems exchanges, and taxpayer operating procedures.

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?

No.

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

No.

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?

NA

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

NA

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

NA

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.

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. <u>Personal Responsibility:</u>

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

No.

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

No.

4. <u>Individual Freedom:</u>

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

Yes. The bill authorizes, but does not require, certain taxpayers to submit tax returns electronically.

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

No.

5. <u>Family Empowerment:</u>

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

(1) Who evaluates the family's needs?

NA

(2) Who makes the decisions?

NA

(3) Are private alternatives permitted?

NA

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

NA

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

NA

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

NA

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?

NA

(2) service providers?

NA

(3) government employees/agencies?

NA

D. SECTION-BY-SECTION ANALYSIS:

Please see the Effect of Proposed Changes section above.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

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:

By eliminating the current requirement that certain tax returns must be filed electronically, some taxpayers may elect not to file their tax returns using EDI in order to avoid the additional costs associated with the purchase of a computer, EDI software, and a modem. Taxpayers will still have the option of purchasing EDI software and filing tax returns electronically.

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

   None.

D. FISCAL COMMENTS:

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 spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

   This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

   This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

Related legislation includes HB 751 by Rep. Wallace and CS/SB 614 by the Commerce and Economic Opportunties Committee and Sen. Ostalkiewicz. These bills provide that a business may deduct the cost of software required by DOR for the electronic filing of state tax information under ch. 212, F.S., from any such taxes that it owes to the state. CS/SB 614 limits the amount of deduction to $130 and provides that a business shall not be required to file tax information electronically if the required software cannot be purchased from an approved vendor for $130 or less.

Additionally, SB 1350 by Sen. Hargrett increases the minimum amount of prior years' taxes that must have been paid in order for DOR to require the taxpayer to remit taxes by EFT from $50,000 to $200,000. This bill also authorizes a taxpayer who remits taxes by EFT to retain an amount equal to the cost of opening a separate bank account for the funds transfer. This bill has been referred to the Senate Commerce and Economic Opportunities Committee.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL RULES AND REGULATIONS:

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