

STORAGE NAME: h0915s1.gg

DATE: April 18, 1997

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 915

RELATING TO: Estimated Tax Payments/Dealers

SPONSOR(S): Committee on General Government Appropriations and Representative Fuller & others

STATUTE(S) AFFECTED: Section 212.11, F.S.

COMPANION BILL(S): SB 1678 (identical) HB 529 (similar) SB 1694 (similar)

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

- (1) BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE YEAS 8 NAYS 0
- (2) FINANCE AND TAXATION (W/D)
- (3) GENERAL GOVERNMENT APPROPRIATIONS YEAS 9 NAYS 0
- (4)
- (5)

I. SUMMARY:

This committee substitute creates a sales and use tax exemption for vessels used by a vessel dealer or manufacturer solely for demonstration, sales promotional, or testing purposes. This committee substitute also presents certain dealers of boats, motor vehicles, and aircraft currently required to make estimated sales tax payments to the state with the option of remitting tax at the time a boat, motor vehicle, or aircraft is sold for at least \$100,000, while making estimated tax calculated on the other portion of their sales.

This committee substitute amends the following sections of the Florida Statutes: 212.06 and 212.11.

II. SUBSTANTIVE RESEARCHES:

A. PRESENT SITUATION:

Section 212.11(1)(a), F.S. (1996 Supplement), read in conjunction with Section 212.11(4)(a), F.S. (1996 Supplement), requires a sales tax dealer who in the preceding state fiscal year paid sales/use tax in an amount equal to or greater than \$100,000 to pay an estimated tax liability. The sales tax dealer must use one of the following methods to calculate the estimated tax liability:

1. 66% of the current month's liability pursuant to this part as shown on the tax return.
2. 66% of the tax reported on the tax return pursuant to this part by a dealer for the taxable transactions occurring during the corresponding month of the preceding calendar year; or
3. 66% of the average tax liability pursuant to this part for those months during the preceding calendar year in which the dealer reported taxable transactions.

The difference between the estimated tax paid and the actual amount of tax collected is due by the 1st of the month after it is collected and must be remitted by the 20th day of the month after the tax is collected.

If the dealer paid less than \$100,00 in sales tax in the preceding state fiscal year, no estimated tax is due. Sales tax collected is due by the 1st of the month after it is collected and must be remitted by the 20th day of the month after the tax is collected.

Under present law a sales tax dealer who paid \$100,000 or more in sales tax and who is engaged in the business of selling boats, motor vehicles, or aircraft must pay estimated sales tax using one of the methods described above.

B. EFFECT OF PROPOSED CHANGES:

This committee substitute (CS) amends s. 212.06(1), F.S., to create a sales and use tax exemption for a vessel used by a vessel dealer or vessel manufacturer solely for demonstration, sales promotional, or testing purposes. The CS defines the term "promotional purposes" to mean the entry of the vessel in a marine-related event:

- where prospective buyers would be in attendance,
- where the vessel is marked for sale,
- on which vessel the dealer's name is displayed, and
- which vessel has never been transferred into the dealer's or manufacturer's accounting books from an inventory item to a capital asset for depreciation purposes.

The term also includes, but is not limited to, participation in fishing events.

The measure specifies that the exemption does not apply when the vessel is: 1) used for transporting people or goods for compensation, 2) offered, let, or rented for consideration, 3) offered for rent or hire as a means of transportation for compensation,

or 4) offered or used to provide transportation for people solicited through personal contact or through advertisement on a "share expense" basis.

It does not appear that the CS would affect the outcome of a case such as *HMY New Yacht Sales*, cited in the present situation section of this analysis, because transferring the vessel from an inventory account to a capital asset account for depreciation purposes is outside the scope of "promotional purposes," as defined in the CS.

This committee substitute also amends s. 212.11(4), F.S., 1996 Supp., to provide that, in lieu of making estimated tax payments based on all sales, a dealer in the business of selling boats, motor vehicles, or aircraft may elect to pay the tax at the time of the sale with respect to each sale of a boat, motor vehicle, or aircraft for \$100,000 or more, while making estimated tax payments based on its other sales.

To qualify for this option, the dealer must:

- have made at least one sale of a boat, motor vehicle, or aircraft with a sales price of \$100,000 or greater in the previous state fiscal year;
- apply annually to the Department of Revenue prior to October 1;
- pay estimated tax on 66 percent of the average liability for all sales -- excluding the sale of each boat, motor vehicle, or aircraft with a sales price of \$100,000 or greater -- for those months during the state fiscal year ending the year in which the dealer applies to the Department; and
- remit the sales tax for each sale of a boat, motor vehicle, or aircraft with a sales price of \$100,000 or greater by electronic funds transfer within three business days after the sale or on a form prescribed by the department and postmarked within three business days of the sale.

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?

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.

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?

No.

- 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?

No.

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

No.

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. SECTION-BY-SECTION RESEARCH:

See Effect of Proposed Changes.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The bill will not reduce the overall amount of sales tax revenue; however, the bill may have a negative impact during fiscal year 1997/98 because the state will receive sales and use taxes on these items one month later during that fiscal year.

The precise fiscal impact of the provision is indeterminable, but is expected to be insignificant.

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:

The bill will not reduce the overall amount of local sales tax revenue; however the bill may have a negative impact during fiscal year 1997/98 because the state will receive sales and use taxes on these items one month later during that fiscal year.

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:

Sales tax dealers will be relieved of the bookkeeping requirement of paying estimated taxes. Presumably, the dealers will be able to otherwise use funds submitted as estimated tax payments for an additional month prior to sending the funds to the state.

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 expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

STORAGE NAME: h0915s1.gg

DATE: April 18, 1997

PAGE 8

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

In FY 1997-98 the overall amount of the Local Government Half Cent Sales Tax will be reduced by an insignificant amount.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE:

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AS FURTHER REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT
APPROPRIATIONS:

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