

STORAGE NAME: h1083s1.bdt

DATE: March 17, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS DEVELOPMENT & INTERNATIONAL TRADE
ANALYSIS**

BILL #: CS/HB 1083

RELATING TO: Sales Tax Exemptions

SPONSOR(S): Committee on Business Development & International Trade and Representatives Johnson and Hart

COMPANION BILL(S): SB 1502(s)

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

- (1) BUSINESS DEVELOPMENT & INTERNATIONAL TRADE YEAS 6 NAYS 0
 - (2) FINANCE & TAXATION
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4)
 - (5)
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I. SUMMARY:

This bill revises the application of the tax exemption on the lease, sublease, license to use, or rental of property to a concessionaire by certain facilities. Publicly-owned theaters, civic centers, performing arts centers, and stadiums are now included in the existing list of facilities exempt from the tax. Additionally, this bill provides a tax exemption for property rented, leased, subleased, or licensed to a concessionaire selling event-related products, by a convention hall, auditorium, stadium, exhibition hall, recreational facility, theater, arena, civic center, or performing arts center, when the rental, lease, or license payment is based on a percentage of sales, and not a fixed price. This bill provides language specifically stating that certain charges to a lessee, or licensee of a facility for other services required, such as ticket takers, event staff, security personnel and other event related personnel, are exempt from the tax on the lease of the property.

Additionally, this bill clarifies that the tax on admissions to certain events is computed on the actual value of the admissions charge and not on the total sale price that sometimes include other charges such as: state or local seat surcharges; separately stated ticket service charges imposed by a facility ticket office; or a ticketing service fee. This bill provides an exemption to the admissions tax for events sponsored by certain government-owned facilities bearing 100 percent of the risk of success or failure for the event, and the student or faculty talent is not exclusively used.

Finally, this bill provides that taxes imposed on the transactions exempted by HB 1083 are not due to the Department of Revenue before the actual date of the related event; and, no taxes imposed by chapter 212, F.S., on the transactions exempted under HB 1083, and not actually paid or collected prior to the effective date, shall be due.

The effective date of HB 1083 is July 1, 1999.

This bill does not address the issue of rulemaking.

This bill has not been addressed by the revenue estimating conference.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Section 212.031(1)(a), F.S., states that every person is exercising a taxable privilege who engages in the renting, leasing, letting, or granting of a licence for the use of any real property. There are several exemptions to the tax imposed on this privilege based on the type or use of the property. Sub-paragraph 10. of s. 212.031(1)(a), F.S., provides an exemption from the taxable privilege herein imposed when the property is leased, subleased, or rented to a person providing food and drink concessionaire services within the premises of a movie theater, a business operated under a permit issued for pari-mutuel activities pursuant to chapter 550, F.S., or any publicly-owned arena, sports stadium, convention hall, exhibition hall, auditorium, or recreational facility.

Section 212.031(1)(c), F.S., imposes a tax rate of 6 percent of and on the total rent or license fee charged for such real property by the person charging or collecting the rental or license fee. Additionally, s. 212.031(3), F.S., provides that the owner, lessor, or person receiving the rent or license fee shall remit the tax to the department at the times and in the manner provided by chapter 212, F.S., for dealers.

Section 212.04(1)(a), F.S., provides that it is a taxable privilege to sell or receive anything of value by way of admissions. Paragraph (b) of this subsection provides the tax rate of 6 percent for such privilege and specifies the rate shall be computed after deducting any federal taxes imposed on the admission. Subsection (2)(a)1. of s. 212.04, F.S, provides exemptions to the tax levied on admissions for certain events. Subsection (3) of s. 212.04, F.S., provides that the admissions tax shall be paid and remitted at the same time and in the same manner as provided for remitting taxes on sales of tangible personal property.

B. EFFECT OF PROPOSED CHANGES:

SECTION 1

Paragraph (a) of subsection (1) of s. 212.031, F.S., is amended revising the application of the exemption for property leased, subleased, licensed, or rented to a person providing food and drink concessionaire services *to include* the following publicly-owned facilities:

- ⇒ Stadiums; (no longer limited to sports stadiums)
- ⇒ Theaters;
- ⇒ Civic Centers; and
- ⇒ Performing Arts Centers.

This section is further amended by adding a new sub-paragraph 12 providing an exemption from the 6 percent tax imposed herein for property rented, leased, subleased, or licensed by certain facilities to a concessionaire selling event-related products during an event at the facility when the rental, lease or license payment is based on a percentage of sales or profits and not on a fixed price. These facilities include:

- ⇒ Convention Halls;
- ⇒ Auditoriums;
- ⇒ Stadiums;
- ⇒ Exhibition Halls;
- ⇒ Recreational Facilities;
- ⇒ Theaters;
- ⇒ Arenas;
- ⇒ Civic Centers; and
- ⇒ Performing Arts Centers.

Subsection (3) of s. 212.031, F.S., is amended to specify that the tax imposed by this section on the rental, lease, or license for the use of certain facilities to hold an event shall be collected at the time of payment for such rental, lease, or license *but shall not be due and payable to the department until the actual date of the event.*

Subsection (9) is added to s. 212.031, F.S., to provide a tax exemption for separately stated charges by a convention hall, auditorium, stadium, exhibition hall, recreational facility, theater, arena, civic center, or performing arts center to a lessee or licensee for services required for the use of real property. Such charges include: laborers, stage hands, ticket takers, event staff, security personnel, cleaning staff, and other event-related personnel.

Furthermore, intent language is provided stating that no tax imposed on the transactions exempted under those sections of chapter 212, F.S., affected by section (1) of this bill, and not actually paid or collected by a taxpayer before the effective date of this act, shall be due from such taxpayer. However, any such taxes actually collected shall be remitted to the Department of Revenue, and no refund shall be due.

SECTION 2

Subsection (1)(b) of s. 212.04, F.S., is amended clarifying that the value of an admission on which the 6 percent tax rate is imposed does not include: state or local seat surcharges; taxes or fees; or service charges imposed by a facility ticket office or a ticketing service.

A new sub-subparagraph c., is added to sub-paragraph 2., of subsection (2)(a), in s. 212.04, F.S., providing a tax exemption on admission charges to events sponsored by certain government-owned facilities when 100 percent of the risk of success or failure lies with the governmental entity sponsoring the event, and 100 percent of the funds at risk for the event belong to the facility, and student or faculty talent is not exclusively used. Government-owned facilities include:

- ⇒ Convention Halls;
- ⇒ Auditoriums;
- ⇒ Stadiums;
- ⇒ Exhibition Halls;
- ⇒ Recreational Facilities;
- ⇒ Theaters;
- ⇒ Arenas;
- ⇒ Civic Centers; and
- ⇒ Performing Arts Centers.

Subsections (3) and (4) of s. 212.04, F.S., are amended to clarify that the taxes imposed by this section are to be collected at the time of payment for the admission, but shall not be due to the Department of Revenue until the actual date of the event for which the admission is sold.

Finally, intent language is provided to clarify that no tax imposed on transactions exempted under those sections of chapter 212, F.S., affected by section (2) of this bill, and not actually paid or collected by a taxpayer before the effective date of this act, shall be due from such taxpayer. However, any such taxes actually collected shall be remitted to the Department of Revenue and no refund shall be due.

The provisions of this bill take effect July 1, 1999.

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?

This bill does not address the issue of rulemaking.

- (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?

The revenue estimating conference has not yet addressed this bill.

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

The revenue estimating conference has not yet addressed this bill.

- 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?

N/A

- 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. STATUTE(S) AFFECTED:

Sections 212.031 and 212.04, Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

See Effect of Proposed Changes in section II., B.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The revenue estimating conference has not yet addressed this bill.

2. Recurring Effects:

The revenue estimating conference has not yet addressed this bill.

3. Long Run Effects Other Than Normal Growth:

The revenue estimating conference has not yet addressed this bill.

4. Total Revenues and Expenditures:

The revenue estimating conference has not yet addressed this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

The revenue estimating conference has not yet addressed this bill.

2. Recurring Effects:

The revenue estimating conference has not yet addressed this bill.

3. Long Run Effects Other Than Normal Growth:

The revenue estimating conference has not yet addressed this bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

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

N/A

D. FISCAL COMMENTS:

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The revenue estimating conference has not yet addressed this bill.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The revenue estimating conference has not yet addressed this bill.

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

The revenue estimating conference has not yet addressed this bill.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 17, 1999, the Committee on Business Development and International Trade adopted two amendments to HB 1083, and subsequently passed it as a committee substitute.

The first amendment deleted language that included lease, license, or rent payments *based on profits* in the new tax exemption on property leased, licensed, or rented to a concessionaire by certain facilities for the purpose of selling even-related products during an event held at that facility.

The second amendment changed the language providing a tax exemption on admissions charges for government-owned facilities when 100 percent of the risk of success or failure lies with the facility: adding the requirement that student or faculty talent can not be exclusively used; and deleting the definition provided for "government-owned."

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT & INTERNATIONAL TRADE:

Prepared by:

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