

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

**BILL:** CS/SB 1818

**SPONSOR:** Fiscal Resource Committee and Senator Campbell

**SUBJECT:** Sales Tax Exemption/Nonprofit Organizations

**DATE:** April 14, 1999                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Keating</u>	<u>Wood</u>	<u>FR</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>CM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

The bill provides an exemption from the sales and use tax for the following:

1) consumer credit counseling organizations; 2) any sale or lease to an organization that is exempt from federal income tax and that has as its sole or primary function, raising funds for other organizations that hold or qualify to hold a Florida consumer’s certificate of exemption. This bill is retroactive to January 1, 1995.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 212.08(7)

**II. Present Situation:**

Under chapter 212, F.S., the State of Florida levies a six percent sales tax on most sales of tangible personal property in the state and on some services. Sales tax is imposed on the sales price of each item or article of tangible personal property, unless otherwise exempt. Section 212.08, F.S., provides for specific exemptions from the sales tax imposed by this chapter. The statutes currently provide more than 150 exemptions from the sales tax. Exemptions generally take the form of identifying specifically exempt items, exempting items when used for particular purposes, and exempting certain types of organizations, such as the government, churches, and charitable organizations. Section 212.08(7), F.S., provides for over 50 miscellaneous exemptions.

A nonprofit entity that raises funds for other nonprofit entities is granted an exemption from sales and use tax in limited circumstances. To qualify for the exemption, the nonprofit fundraising entity must comply with the requirements of either ss. 212.08(7)(o)2.b. or 212.08(7)(o)2.d., F.S.

To qualify under s. 212.08(7)(o)2.b., F.S., the fundraising entity’s “sole or primary” function must be to raise funds for other nonprofit entities that provide specified services, free of charge or at

substantially reduced rates, to needy individuals, animals or organizations. The specified services include provision of medical aid or medical research; provision of the physical necessities of life; prevention of or rehabilitation from alcoholism or drug addiction; prevention of suicide; alleviation of mental, physical or sensory health problems; social welfare services; legal services; or provision of food, shelter, medical care, or adoption services for animals.

The “sole or primary” function requirement is interpreted by the Department of Revenue to mean that the fundraising entity expend in excess of 50 percent of its operational expenditures on qualified charitable services, within the fundraising entity’s most recent fiscal year.

To qualify under s. 212.08(7)(o)2.d., F.S., the fundraising entity must have as a purpose, the fundraising of funds for schools teaching grades kindergarten through high school, or for colleges and universities.

Section 212.08(7)(o)2.e., F.S., defines “Veterans’ organizations” to mean nationally chartered or recognized veterans’ organizations, ... which hold current exemptions from federal income tax under s. 501 © (4) or (19) of the Internal Revenue Code.

### **III. Effect of Proposed Changes:**

The bill amends paragraph (o) and adds a new subsection (zz), to s. 212.08(7), F.S.. Paragraph (o) is amended to provide a sales tax exemption to consumer credit counseling services pursuant to the definition of a “charitable institution”. The bill also clarifies that “veterans’ organizations” which hold current exemption from federal income tax under s. 501(c)(3) are qualified for exemption from the state sales tax.

Paragraph (zz) provides an exemption from sales and use tax for any sale or lease to a fundraising entity that holds a current exemption from federal income taxation pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, if the sole or primary function of the organization is to raise funds for any other organization that currently holds a consumer’s certificate of exemption issued in Florida or that would qualify for such a consumer’s certificate of exemption if it applied for one. If an organization applied for a consumer’s certificate of exemption on or after January 1, 1995, and the organization qualifies for this exemption, the exemption provided by this paragraph shall be retroactive to the date of the application. The bill places the responsibility on the organization eligible for the retroactive exemption for initiating a request of the Department of Revenue to determine their eligibility for such retroactive exemption.

The bill shall take effect upon becoming a law.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

This bill initially falls under subsection (b) of section 18 of Article VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989 to raise revenues in the aggregate. By adding an exemption to the state sales tax, the bill has

the effect of adding an exemption to the local option county sales surtax. Since the annual local revenue loss is estimated to be less than \$1.4 million, the bill will be exempt from the requirements of subsection (b) due to the insignificant negative fiscal impact as permitted under subsection (d) of section 18 of Article VII. (See subsection (d) of s. 18, Art. VII, Florida Constitution, for various types of general laws, including those with insignificant fiscal impact.)

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

The Revenue Estimating Conference estimates the prospective fiscal impact of SB 1818 as a recurring loss to the General Revenue Fund of \$2.0 million and a recurring loss to local governments of \$0.3 million. The fiscal impact of the retroactive exemption has not been determined. The exemption for qualified organizations offering consumer credit counseling services is estimated to reduce General Revenue on a recurring basis by \$0.3 million.

Issue/Fund	General Revenue		Trust		Local		Total	
	1st Year \$	Recurring \$	1st Year \$	Recurring \$	1st Year \$	Recurring \$	1st Year \$	Recurring \$
1. Nonprofit Organizations	(1.8)	(2.0)	(*)	(*)	(0.3)	(0.3)	(2.1)	(2.3)
2. Consumer Credit Counseling	(0.3)	(0.3)	(*)	(*)	(*)	(*)	(0.3)	(0.3)

\* Insignificant  
 \*\* Indeterminate

**B. Private Sector Impact:**

Qualified nonprofit organization that raise funds for organizations that hold consumer’s certificate of exemption will be exempt from the sales and use tax for any sale or lease of tangible personal property, as well as qualified organizations providing consumer credit counseling services.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

HB 747 is similar to SB 1818.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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