

By the Committee on Finance & Taxation and Representatives
Albright, Starks, Fasano and Brown

1 A bill to be entitled
2 An act relating to intangible personal property
3 taxes; amending ss. 199.023 and 199.052, F.S.;
4 revising the definition of "affiliated group"
5 to include limited liability companies
6 connected through membership interest with a
7 common parent; revising provisions which allow
8 affiliated groups to file a consolidated
9 return, to include such limited liability
10 companies; amending s. 199.032, F.S.; reducing
11 the rate of the annual tax; amending s.
12 199.033, F.S.; reducing the rates of the tax on
13 securities in a Florida's Future Investment
14 Fund to conform; amending s. 199.185, F.S.;
15 increasing the percentage of accounts
16 receivable that is exempt from intangible
17 personal property taxes; retaining legislative
18 intent to exempt all accounts receivable on a
19 future date; increasing the exemption from the
20 annual tax granted to natural persons;
21 providing an exemption from the annual tax for
22 taxpayers who are not natural persons;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Subsection (8) of section 199.023, Florida
28 Statutes, 1998 Supplement, is amended to read:

29 199.023 Definitions.--As used in this chapter:

30 (8) "~~Affiliated group of corporations~~" means one or
31 more chains of corporations or limited liability companies

1 connected through stock ownership or membership interest in a
2 limited liability company with a common parent corporation or
3 limited liability company, providing that:

4 (a) Stock or membership interest in a limited
5 liability company possessing at least 80 percent of the voting
6 power of all classes of stock or membership interest in a
7 limited liability company and at least 80 percent of each
8 class of the nonvoting stock or membership interest in a
9 limited liability company of each corporation or limited
10 liability company, except for the common parent corporation or
11 limited liability company, is owned directly by one or more of
12 the other corporations or limited liability companies; and

13 (b) The common parent corporation or limited liability
14 company directly owns stock or membership interest in a
15 limited liability company possessing at least 80 percent of
16 the voting power of all classes of stock or membership
17 interest in a limited liability company and at least 80
18 percent of each class of the nonvoting stock or membership
19 interest in a limited liability company of at least one of the
20 other corporations or limited liability companies.

21
22 As used in this subsection, the term "nonvoting stock or
23 membership interest in a limited liability company" does not
24 include nonvoting stock or membership interest in a limited
25 liability company which is limited and preferred as to
26 dividends. For the purposes of this chapter, a common parent
27 may be a corporation or a limited liability company.

28 Section 2. Section 199.032, Florida Statutes, is
29 amended to read:

30 199.032 Levy of annual tax.--An annual tax of 1.75 ~~2~~
31 mills is hereby imposed on each dollar of the just valuation

1 of all intangible personal property which has a taxable situs
2 in this state, except for notes and other obligations for the
3 payment of money, other than bonds, which are secured by
4 mortgage, deed of trust, or other lien upon real property
5 situated in the state. This tax shall be assessed and
6 collected as provided in this chapter.

7 Section 3. Subsection (1) of section 199.033, Florida
8 Statutes, is amended to read:

9 199.033 Securities in a Florida's Future Investment
10 Fund; tax rate.--

11 (1) Notwithstanding the provisions of this chapter,
12 the tax imposed under s. 199.032 on securities in a Florida's
13 Future Investment Fund shall apply at the rate of 1.60 ~~1.85~~
14 mills when the average daily balance in such funds exceeds \$2
15 billion and at the rate of 1.45 ~~1.70~~ mills when the average
16 daily balance in such funds exceeds \$5 billion.

17 Section 4. Subsection (10) of section 199.052, Florida
18 Statutes, 1998 Supplement, is amended to read:

19 199.052 Annual tax returns; payment of annual tax.--

20 (10) An affiliated group ~~of corporations~~ may elect to
21 make a consolidated return for any year. The election shall
22 be made by timely filing a consolidated return. Once made, an
23 election may not be revoked, and it is binding for the tax
24 year. The mere making of a consolidated return shall not in
25 itself provide a business situs in this state for intangible
26 personal property held by a corporation or limited liability
27 company. The fact that members of an affiliated group own
28 stock in corporations or membership interest in limited
29 liability companies which do not qualify under the stock
30 ownership or membership interest in a limited liability
31 company requirements as members of an affiliated group shall

1 not preclude the filing of a consolidated return on behalf of
2 the qualified members. Where a consolidated return is made,
3 intercompany accounts, including the capital stock or
4 membership interest in a limited liability company of an
5 includable corporation or limited liability company, other
6 than the parent, owned by another includable corporation or
7 limited liability company, shall not be subject to annual
8 taxation. However, capital stock or membership interest in a
9 limited liability company and other intercompany accounts of a
10 nonqualified member of the affiliated group shall be subject
11 to annual tax. Each consolidated return shall be accompanied
12 by documentation identifying all intercompany accounts and
13 containing such other information as the department shall
14 require. Failure to timely file a consolidated return shall
15 not prejudice the taxpayer's right to file a consolidated
16 return, provided that the failure to file a consolidated
17 return is limited to 1 year and the taxpayer's intent to file
18 a consolidated return is evidenced by the taxpayer having
19 filed a consolidated return for the 3 years prior to the year
20 the return was not timely filed.

21 Section 5. Paragraph (1) of subsection (1) and
22 subsection (2) of section 199.185, Florida Statutes, 1998
23 Supplement, are amended to read:

24 199.185 Property exempted from annual and nonrecurring
25 taxes.--

26 (1) The following intangible personal property shall
27 be exempt from the annual and nonrecurring taxes imposed by
28 this chapter:

29 (1) Two-thirds ~~One-third~~ of the accounts receivable
30 arising or acquired in the ordinary course of a trade or
31 business which are owned, controlled, or managed by a taxpayer

1 on January 1, 2000 ~~1999~~, and thereafter. It is the intent of
2 the Legislature that, pursuant to future legislative action,
3 the portion of such accounts receivable exempt from taxation
4 be increased to ~~two-thirds for taxes levied on January 1,~~
5 ~~2000, and further increased~~ to all such accounts receivable on
6 January 1, 2001, and thereafter. This exemption does not apply
7 to accounts receivable which arise outside the taxpayer's
8 ordinary course of trade or business. For the purposes of this
9 chapter, the term "accounts receivable" means a business debt
10 that is owed by another to the taxpayer or the taxpayer's
11 assignee in the ordinary course of trade or business and is
12 not supported by negotiable instruments. Accounts receivable
13 include, but are not limited to, credit card receivables,
14 charge card receivables, credit receivables, margin
15 receivables, inventory or other floor plan financing, lease
16 payments past due, conditional sales contracts, retail
17 installment sales agreements, financing lease contracts, and a
18 claim against a debtor usually arising from sales or services
19 rendered and which is not necessarily due or past due. The
20 examples specified in this paragraph shall be deemed not to be
21 supported by negotiable instruments. The term "negotiable
22 instrument" means a written document that is legally capable
23 of being transferred by indorsement or delivery. The term
24 "indorsement" means the act of a payee or holder in writing
25 his or her name on the back of an instrument without further
26 qualifying words other than "pay to the order of" or "pay to"
27 whereby the property is assigned and transferred to another.

28 (2)~~(a)~~ With respect to the ~~first mill of the~~ annual
29 tax, every natural person is entitled each year to an
30 exemption of the first \$100,000 ~~\$20,000~~ of the value of
31 property otherwise subject to said tax. A husband and wife

1 filing jointly are entitled to ~~shall have~~ an exemption of
2 ~~\$200,000~~\$40,000. Every taxpayer that is not a natural person
3 is entitled each year to an exemption of the first \$100,000 of
4 the value of property otherwise subject to tax.

5 ~~(b) With respect to the last mill of the annual tax,~~
6 ~~every natural person is entitled each year to an exemption of~~
7 ~~the first \$100,000 of the value of property otherwise subject~~
8 ~~to said tax. A husband and wife filing jointly shall have an~~
9 ~~exemption of \$200,000.~~

10
11 Agents and fiduciaries, other than guardians and custodians
12 under a gifts-to-minors act, filing as such may not claim this
13 exemption on behalf of their principals or beneficiaries;
14 however, if the principal or beneficiary returns the property
15 held by the agent or fiduciary and is a natural person, the
16 principal or beneficiary may claim the exemption. No taxpayer
17 shall be entitled to more than one exemption under this
18 subsection ~~paragraph (a) and one exemption under paragraph~~
19 ~~(b)~~. This exemption shall not apply to that intangible
20 personal property described in s. 199.023(1)(d).

21 Section 6. This act shall take effect January 1, 2000.
22
23
24
25
26
27
28
29
30
31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

HOUSE SUMMARY

For purposes of imposition of intangible personal property taxes, revises the definition of "affiliated group" to include limited liability companies connected through membership interest with a common parent and provides that such limited liability companies are allowed to file a consolidated return.

Reduces the rate of the annual intangible tax from 2 mills to 1.75 mills.

Implements legislative intent that the second one-third of accounts receivable become exempt from intangible personal property taxes on January 1, 2000. Present law exempts one-third on January 1, 1999, and expresses the intent that all accounts receivable be exempt beginning January 1, 2001.

Increases the value of intangible personal property owned by a natural person which is exempt from the annual tax thereon from \$20,000, with respect to the first mill of tax, and \$100,000, with respect to the second mill of tax, to a flat \$100,000 (these amounts are doubled for a husband and wife filing jointly). Provides a \$100,000 exemption for taxpayers that are not natural persons.