

STORAGE NAME: h0221s1a.ft

DATE: April 16, 1999

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
FINANCE AND TAXATION
ANALYSIS**

BILL #: CS/HB 221

RELATING TO: Sales Tax Exemptions

SPONSOR(S): Committee on Financial Services and Representative Trovillion

COMPANION BILL(S): SB 132 (Similar)

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

- (1) FINANCIAL SERVICES YEAS 10 NAYS 0
- (2) GOVERNMENTAL RULES AND REGULATIONS YEAS 7 NAYS 0
- (3) FINANCE AND TAXATION YEAS 15 NAYS 0
- (4) GENERAL GOVERNMENT APPROPRIATIONS
- (5)

I. SUMMARY:

The bill creates a retail sales tax exemption for transactions of coin or currency which is legal tender of the United States, and creates an exemption for other coins or currency transactions over \$500. The bill also provides for a sales tax exemption for gold, silver, and/or platinum bullion transactions over \$500. In either of the transactions, the seller/dealer would be required to maintain documentation identifying the portion of a transaction to which these exemptions apply.

The Director of the Department of Revenue would be given the authority to adopt emergency rules under section 120.54(4), F.S., and section 120.536(1), F.S., for the purposes of prescribing the forms, documentation, and procedures necessary to administer the exemptions provided under this act. Notwithstanding any other provision of law, such emergency rules would remain in effect for a period of six months.

The estimated fiscal impact upon General Revenue is (\$0.3) million for FY 99-2000 and (\$0.3) million for FY 2000-2001. There will be a negative, but insignificant impact on the Solid Waste Management Trust Fund and local governments. The total estimated fiscal impact for this bill is (\$0.3) million for FY 1999-2000 and (\$0.3) million for FY 2000-2001

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 212, F.S. provides that a sales and use tax be imposed on the retail sale, storage, or use of tangible personal property. Section 212.02(19), F.S. (1998 Supp.), defines "tangible personal property" as "personal property which may be seen, weighed, measured, or touched or is in any manner perceptible to the senses..."

Sales Tax on Coins and Currency

Section 212.05 (1)(k), F.S. (1998 Supp.), assesses a 6 percent sales tax on the sale, use, consumption, or storage of any coin or currency which:

- a) is not legal tender;
- b) if legal tender, is sold, exchanged, or traded at a rate in excess of its face value; or,
- c) is sold, exchanged, or traded at a rate based on its precious metal content.

If the coin or currency is legal tender the transaction is taxed at a rate of 6 percent of the *difference* between the price at which it is sold, exchanged, or traded, and its face value.

There is a current exemption from taxation for an exchange of coin or currency which is in circulation in one nation, for coin or currency which is in circulation in another nation, when the exchange is solely for use as legal tender and the exchange rate is based on the relative value of each as a medium of exchange.

According to the DOR, there are approximately 250 dealers in the state which engage in transactions of such coin and currency.

Miscellaneous Sales Tax Exemptions

Section 212.08(1)-(6), F.S. (1998 Supp.), provides for full and/or partial sales tax exemptions for certain categories of goods that are sold, rented, used or consumed, including certain general groceries and food products, medical products and supplies, certain farm equipment, items bearing other excise taxes, certain machinery and equipment, and sales made to political subdivisions.

Section 212.08 (7), F.S. (1998 Supp.) numerous sales and use tax exemptions under a "miscellaneous" category, which includes such varied transactions as artificial commemorative flowers, flags of the United States and Florida, guide dogs for the blind, meals provided by some non-profit groups, certain works of art purchased by educational facilities, taxicab leases, aircraft repair and maintenance labor charges, mobile home lot improvements and the sale of racing dogs.

Emergency Rulemaking Authority

Section 213.06, F.S. (1998 Supp.), authorizes the executive director of the DOR to adopt emergency rules pursuant to s. 120.54, F.S. (1998 Supp.), when the effective date of a legislative change occurs sooner than 60 days after the close of a legislative session when the change affects a tax rate, collection or reporting, or when the change affects a substantial number of dealers. An emergency rule adopted under s. 120.54, F.S., shall not be effective for a period longer than 90 days and shall not be renewable, except under certain circumstances.

B. EFFECT OF PROPOSED CHANGES:

Sales Tax on Coins and Currency

- The bill creates a retail sales tax exemption for transactions of coin or currency which is legal tender of the United States.

Example 1: An Individual possesses a \$20 gold coin minted by the Denver mint in 1888. Technically, the gold coin has a face value of \$20. The individual sells the gold coin to a coin dealer for \$300. The tax exemption on the difference between the sales price and the face value of the coin results in a savings of \$16.80 for the individual.

- The bill creates a retail sales tax exemption for coins or currency transactions over \$500. The seller/dealer would be required to maintain documentation identifying the portion of a transaction to which these exemptions apply.

Example 2: A consumer purchases:

- (a) two gold crosses for \$600;
- (b) an emerald stone for \$1,800; and,
- (c) four gold two escudo coins which were recovered from the Spanish galleon Nuestra Senora de Antocha, for \$12,800.

Of the \$15,200 spent for the items, \$12,800 (the cost of the gold coins) would be exempted from sales tax. Instead of paying \$912 in sales tax, the consumer would be required to pay only \$144 in sales tax, and the dealer would be required to keep records to account for the exempted portion of the transaction.

Miscellaneous Sales Tax Exemptions

- The bill establishes a sales tax exemption for gold, silver, and/or platinum bullion transactions which amount exceeds \$500. The seller/dealer would be required to maintain documentation identifying the portion of a transaction to which these exemptions apply.

Example 3: Assume the same facts as Example 2, plus an additional transaction of three silver bars worth \$1,700. Under the proposed law, only the gold crosses and the emerald (representing only \$2,400 of the \$16,900 transaction) would be taxed. Instead of paying \$1,014 in taxes, the consumer would be required to pay only \$144 in sales tax, and the dealer would be required to keep records to account for the exempted portion of the transaction.

Emergency Rulemaking Authority

The bill authorizes the director of the DOR to adopt emergency rules under section 120.54(4), F.S., and section 120.536(1), F.S., for the purposes of prescribing the forms, documentation, and procedures necessary to administer the exemptions provided under this act. Notwithstanding any other provision of law, such emergency rules would remain in effect for a period of six months.

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?

Yes. The director of the DOR is given authority to adopt emergency rules in connection with the sales tax exemption on the sales of coins, currency, gold, silver, or silver bullion and such rules shall be in effect for six months. Such rules may be adopted for the purpose of prescribing the forms, documentation, and procedures necessary to administer the exemptions.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. The dealer is required to maintain proper documentation to identify that portion of a transaction involving the sale of coins, currency, gold, silver, or platinum bullion which is tax exempt.

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

N/A

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?

Yes. Certain transactions of coin or currency, and/or gold, silver or platinum bullion, that exceed \$500 would be exempt from sales tax resulting in a negative fiscal impact to the General Revenue Fund.

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?

No.

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?

N/A

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:

Amends s. 212.05(1)k, F.S. (1998 Supp.), and s. 212.08(7), F.S. (1998 Supp.)

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s.212.05 (1)k, F.S. (1998 Supp.) exempting from sales tax transactions of coin or currency which is legal tender of the United States. In addition, there is created an exemption for other coins or currency transactions over \$500. The dealer must maintain proper documentation to identify that portion of a transaction which involves the sale of coins or currency which is tax exempt.

Section 2. Amends section 212.08, F.S. (1998 Supp.), adding paragraph (zz) to subsection (7), to exempt the sale of gold, silver, or platinum bullion from sales tax if the sales price exceeds \$500. The dealer must maintain proper documentation to identify that portion of a transaction which involves the sale of gold, silver, or platinum bullion which is tax exempt. This section takes effect upon the bill becoming law.

Section 3. Provides authority for the executive director of the DOR to adopt emergency rules for a period of six months for purposes of implementing this act. Such rules may be adopted for the purpose of prescribing the forms, documentation, and procedures necessary to administer the exemptions.

Section 4. Provides an effective date of July 1, 1999, unless otherwise provided.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

	FY 1999-00	FY 2000-01
General Revenue	(\$0.3M)	(\$0.3M)
Trust Fund	(*)	(*)
Local Government	(*)	(*)

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

See III. A. 2.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

See III. A. 2.

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:

These tax exemptions may stimulate coin, currency, and bullion sales in the state, which may have the effect of generating more interest in numismatic conventions and trade shows in the state.

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

These tax exemptions may stimulate coin, currency, and bullion sales in the state, which may have the effect of generating more interest in numismatic conventions and trade shows in the state.

D. FISCAL COMMENTS:

None

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:

Although the bill will reduce the amount of revenue generated from sales tax, the impact is deemed to be insignificant and the bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

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

The bill does not reduce the percentage of a state tax shared with counties and municipalities. Therefore, Article VII, Section 18(b), Florida Constitution, does not apply.

V. COMMENTS:

The following are comments provided by the Committee on Financial Services:

The CS version creates a retail sales tax exemption for transactions of coin or currency which is legal tender of the United States.

The following are comments provided by the Committee on Governmental Rules and Regulations:
The bill authorizes the director of the DOR to adopt emergency rules. However, the bill provides for an effective period of six months (180 days) that is double the period authorized in s. 120.54(4), F.S. That section authorizes an agency to adopt an emergency rule, provided criteria relating to the protection of the public's health or safety are met, for a period of 90 days.

Additionally, the DOR is uncertain whether it can promulgate an emergency rule to implement the provisions of this bill any faster than it could promulgate a rule under the other provisions of s. 120.54, F.S., that control rule adoption under normal circumstances.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee Substitute differs from the original bill in the following ways:

- The CS version specifies that the emergency rulemaking authority conferred on the DOR shall be to establish forms, documentation and procedures to implement the sales tax exemptions provided by the bill; and,
- The CS version creates a retail sales tax exemption for transactions of coin or currency which is legal tender of the United States.

VII. SIGNATURES:

COMMITTEE ON FINANCIAL SERVICES:

Prepared by:

Staff Director:

Michael Kliner

Susan F. Cutchins

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL RULES AND REGULATIONS:

Prepared by:

Staff Director:

Veronica P. Alvarez

David M. Greenbaum

AS FURTHER REVISED BY THE COMMITTEE ON FINANCE AND TAXATION:

Prepared by:

Staff Director:

Lynne Overton

Alan Johansen