STORAGE NAME: h0027.fs
DATE: November 23, 1998

HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT

BILL #: HB 27

RELATING TO: Intangible Personal Property Taxes

SPONSOR(S): Rep. Starks

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) FINANCIAL SERVICES
(2) FINANCE AND TAXATION
(3) GENERAL APPROPRIATIONS
(4)
(5)

I. SUMMARY:

House Bill 27 increases from one-third to two-thirds the exemption for accounts receivable from the intangible tax. The bill further expresses the intent of the Legislature to completely exempt accounts receivable on January 1, 2001, pursuant to future legislative action.

In the 1998 Regular Session, the Revenue Estimating Conference estimated that eliminating accounts receivables from the intangible tax would negatively impact the General Revenue Fund by ($40.1 m) for each FY 1998-1999, FY 1999-2000, and FY 2000-2001, in perpetuity.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Intangible tax -- generally

Florida's intangible tax, enacted in 1931, is described in s. 199.023, F.S. (1998 Supplement), as being a tax on "all personal property which is not in itself intrinsically valuable, but which derives its chief value from that which it represents." This section further describes taxable intangible personal property as including, among other things, stocks, bonds, notes, other obligations to pay money, and accounts receivable. The intangible tax has two parts: the annual and the nonrecurring. Nonrecurring taxes are paid on evidences of indebtedness secured by a note, such as a mortgage. Annual taxes are paid on stocks, bonds, accounts receivable, and other indications of wealth.

Intangible tax that is paid annually is based on the value of assets as of January 1. Section 199.103, F.S. The return is due by June 30 with discounts for early payment. Section 199.042, F.S. The tax is paid by all "persons" (natural and non-natural), which include any individual, firm, partnership, joint adventure, syndicate, or other group or combination acting as a unit, association, corporation, estate, trust, business trust, trustee, personal representative, receiver, or other fiduciary, unless such persons are exempted from the tax. Section 199.03(3), F.S. The tax must be paid by all corporations that own, control, or manage intangible personal property which has a taxable situs within the state. Section 199.052(1), F.S. (1998 Supplement). The terms "control" or "manage" do not include any ministerial function or any processing activity. Section 199.052(1), F.S. (1998 Supplement).

The tax rate is capped at 2 mills by Article VII, Section 2 of the Florida Constitution. The current tax rate is 2 mills ($2 per $1,000 of value). Section 199.032, F.S.[1] With respect to the first mill of the annual tax, every natural person is entitled each year to an exemption of the first $20,000 of the value of property otherwise subject to said tax. A husband and wife filing jointly enjoy an exemption of $40,000. With respect to the second mill of the annual tax, every natural person is entitled each year to an exemption of the first $100,000 of the value of property otherwise subject to said tax. A husband and wife filing jointly will have an exemption of $200,000. Section 199.185(2), F.S. (1998 Supplement). For example, an individual who owns less than $100,000 of intangible personal property would enjoy an exemption of $20,000. An individual who owns more than $100,000 of intangible personal property would enjoy an exemption of $100,000. If a husband and wife own up to $100,000 intangible personal property, they would have an exemption of $40,000. A husband and wife who own more than $200,000 worth of intangible personal property would be exempt from taxation on the first $200,000. "Non-natural" persons, such as corporations, do not receive these exemptions.

If any individual or entity owes less than $60 in tax, no tax and no return are due. Section 199.052(4), F.S. (1998 Supplement). An individual would owe taxes if he owns more than $80,000 in intangible personal property. A married couple filing jointly would

[1]Banks and savings associations are exempt from .5 mills; therefore, they are taxed at a rate of 1.5 mills. Section 199.185(5), F.S. (1998 Supplement).

owe taxes if they own more than $100,000 of intangible personal property. Corporations would owe taxes if they owe more than $30,000 in intangible property.

If the intangible tax is not paid by the due date, the delinquency penalty is 10 percent of the delinquent tax for each calendar month or portion thereof from the due date until paid, up to a limit of 50 percent of the total tax not timely paid. If the tax return required is not filed by the due date, a penalty of 10 percent of the tax due with the return is charged for each year or portion of the year during which the return remains unfiled. Section 199.282, F.S. (1998 Supplement). The combined totals for taxes or returns not filed is limited to 10 percent percalendar month, up to 50 percent of the total tax due. If a tax return is filed and property is either omitted or undervalued, then a specific penalty shall be charged of 10 percent of the tax attributable to each omitted item or to each undervaluation. No delinquency or late filing penalty shall be charged with respect to any undervaluation. Section 199.282, F.S. (1998 Supplement).

Revenues from the intangible tax are shared between the state and the counties. After administrative expenses, the counties receive 35.7 percent and the state receives 64.3 percent of the revenues. Section 199.292(3), F.S. (1998 Supplement).

Exemptions -- Accounts receivable

Section 199.185, F.S. (1998 Supplement), provides for a variety of exemptions from annual and non-recurring intangible taxes. During the 1998 Regular Session, the Legislature expanded this list of exemptions to include a one-third exemption for “accounts receivable,” defined as “a business debt which is owed by another to the taxpayer or the taxpayer’s assignee in the taxpayer’s ordinary course of trade or business and is not supported by negotiable instruments.” Section 199.185 (1)(l), F.S. (1998 Supplement). Accounts receivable include, but are not limited to, credit card receivables, charge card receivables, credit receivables, margin receivables, inventory or other floor plan financing, lease payments past due, conditional sales contracts, retail installment sales agreements, financing lease contracts, and claims against a debtor usually arising from sales or services rendered and which are not necessarily due or past due. The exemption does not apply to accounts receivable which arise outside the taxpayer’s ordinary course of trade or business. However, this exclusion does not apply to a person who was in the business of buying and selling intangible assets where the receivable arises in the ordinary course of business.

The one-third exemption provided for intangible taxes owed on accounts receivable under s. 199.185(1)(l), F.S.(1998 Supplement), is effective January 1, 1999. This section also provides legislative intent to increase the exemption to two-thirds (the subject of this bill) effective January 1, 2000, and to completely eliminate accounts receivables from the intangible tax effective January 1, 2001, pending future legislation.

B. EFFECT OF PROPOSED CHANGES:

Acknowledging the legislative intent expressed in s. 199.185(1)(l), F.S. (1998 Supplement), the existing exemption for accounts receivable from the intangible tax is increased by the bill from one-third to two-thirds. The bill further revises the intent language of this section to reflect this action. The intent of the Legislature to completely exempt accounts receivable on January 1, 2001, pursuant to future legislative action is retained.

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?

N/A

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

N/A

(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?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

The bill reduces intangible tax liability of individuals and businesses by increasing the accounts receivable exemption from one-third to two-thirds.

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

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

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?

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. 199.185, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Amends s. 199.185 (1)(l), F.S., increases the existing exemption for accounts receivable from the intangible tax is increased from one-third to two-thirds. The bill further revises the Legislative intent language to reflect this action. The intent of the Legislature to completely exempt accounts receivable on January 1, 2001, pursuant to future legislative action is retained.

Section 2. Provides an effective date.

III. FISCAL RESEARCH & 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	FY2001-02
General Revenue [2]	($40.1 m)	($40.1 m)	($40.1 m)

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

See III.A.2., above

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

[2] In 1998, the Revenue Estimating Conference estimated that eliminating the accounts receivables from the intangibles tax would negatively impact the General Revenue Fund by approximately ($40.1 m) for each FY 1998-1999, FY 1999-2000, and FY 2000-2001, in perpetuity.

1. Direct Private Sector Costs:

   None

2. Direct Private Sector Benefits:

   Both businesses and individuals will have lower taxes due to the exemption of accounts receivable from intangible tax.

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

   The Florida TaxWatch established a Florida Intangible Tax Task Force to examine the impact Florida's intangible tax has on the economic development and competitive position of Florida. The task force met during the winter of 1997-98 and concluded that certain aspects of the intangible personal property tax deterred economic growth in Florida.

D. FISCAL COMMENTS:

While Chapter 98-132, Laws of Florida, reduced the amount of funds shared with the counties, the law actually increased counties' percentage share.

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:

The bill will not reduce the authority of municipalities and counties to raise revenues.

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

This bill will not reduce the state tax shared with counties and municipalities. See, Section D. FISCAL COMMENTS.

V. COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON FINANCIAL SERVICES:

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