

CONFERENCE COMMITTEE AMENDMENT

Bill No. CS for SB 318, 1st Eng.

Amendment No. 1

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Conference Committee on CS for SB 318, 1st Eng.
recommended the following amendment:

Conference Committee Amendment (with title amendment)

Delete everything after the enacting clause,

and insert:

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

199.023 Definitions.--As used in this chapter:

(8) "~~Affiliated group of corporations~~" means one or more chains of corporations or limited liability companies connected through stock ownership or membership interest in a limited liability company with a common parent corporation or limited liability company, for which ~~providing that:~~

(a) Stock or membership interest in a limited liability company possessing at least 80 percent of the voting power of all classes of stock or membership interest in a limited liability company and at least 80 percent of each class of the nonvoting stock or membership interest in a limited liability company of each corporation or limited

CONFERENCE COMMITTEE AMENDMENT

Bill No. CS for SB 318, 1st Eng.

Amendment No. 1

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

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13 As used in this subsection, the terms ~~term~~ "nonvoting stock"
14 and "membership interest in a limited liability company" do
15 ~~does~~ not include nonvoting stock or membership interest in a
16 limited liability company which is limited and preferred as to
17 dividends. For purposes of this chapter, a common parent may
18 be a corporation or a limited liability company.

19 Section 2. Subsection (1) of section 199.033, Florida
20 Statutes, is amended to read:

21 199.033 Securities in a Florida's Future Investment
22 Fund; tax rate.--

23 (1) Notwithstanding the provisions of this chapter,
24 the tax imposed under s. 199.032 on securities in a Florida's
25 Future Investment Fund shall apply at the rate of 1.35 ~~1.85~~
26 mills when the average daily balance in such funds exceeds \$2
27 billion and at the rate of 1.20 ~~1.70~~ mills when the average
28 daily balance in such funds exceeds \$5 billion.

29 Section 3. Subsection (10) of section 199.052, Florida
30 Statutes, 1998 Supplement, is amended to read:

31 199.052 Annual tax returns; payment of annual tax.--

CONFERENCE COMMITTEE AMENDMENT

Bill No. CS for SB 318, 1st Eng.

Amendment No. 1

1 (10) An affiliated group ~~of corporations~~ may elect to
2 make a consolidated return for any year. The election shall
3 be made by timely filing a consolidated return. Once made, an
4 election may not be revoked, and it is binding for the tax
5 year. The mere making of a consolidated return shall not in
6 itself provide a business situs in this state for intangible
7 personal property held by a corporation. The fact that
8 members of an affiliated group own stock in corporations or
9 membership interest in limited liability companies which do
10 not qualify under the stock ownership or membership interest
11 in a limited liability company requirements as members of an
12 affiliated group shall not preclude the filing of a
13 consolidated return on behalf of the qualified members. Where
14 a consolidated return is made, intercompany accounts,
15 including the capital stock or membership interest in a
16 limited liability company of an includable corporation or
17 limited liability company, other than the parent, owned by
18 another includable corporation or limited liability company,
19 shall not be subject to annual taxation. However, capital
20 stock, or membership interest in a limited liability company,
21 and other intercompany accounts of a nonqualified member of
22 the affiliated group shall be subject to annual tax. Each
23 consolidated return shall be accompanied by documentation
24 identifying all intercompany accounts and containing such
25 other information as the department shall require. Failure to
26 timely file a consolidated return shall not prejudice the
27 taxpayer's right to file a consolidated return, provided that
28 the failure to file a consolidated return is limited to 1 year
29 and the taxpayer's intent to file a consolidated return is
30 evidenced by the taxpayer having filed a consolidated return
31 for the 3 years prior to the year the return was not timely

CONFERENCE COMMITTEE AMENDMENT

Bill No. CS for SB 318, 1st Eng.

Amendment No. 1

1 filed.

2 Section 4. Section 199.032, Florida Statutes, is
3 amended to read:

4 199.032 Levy of annual tax.--An annual tax of 1.5 ~~2~~
5 mills is ~~hereby~~ imposed on each dollar of the just valuation
6 of all intangible personal property that ~~which~~ has a taxable
7 situs in this state, except for notes and other obligations
8 for the payment of money, other than bonds, which are secured
9 by mortgage, deed of trust, or other lien upon real property
10 situated in the state. This tax shall be assessed and
11 collected as provided in this chapter.

12 Section 5. Paragraph (1) of subsection (1) and
13 paragraph (b) of subsection (2) of section 199.185, Florida
14 Statutes, 1998 Supplement, are amended to read:

15 199.185 Property exempted from annual and nonrecurring
16 taxes.--

17 (1) The following intangible personal property shall
18 be exempt from the annual and nonrecurring taxes imposed by
19 this chapter:

20 (1) Two-thirds ~~One-third~~ of the accounts receivable
21 arising or acquired in the ordinary course of a trade or
22 business which are owned, controlled, or managed by a taxpayer
23 on January 1, 2000 ~~1999~~, and thereafter. It is the intent of
24 the Legislature that, pursuant to future legislative action,
25 the portion of such accounts receivable exempt from taxation
26 be increased to ~~two-thirds for taxes levied on January 1,~~
27 ~~2000, and further increased to~~ all such accounts receivable on
28 January 1, 2001, and thereafter. This exemption does not apply
29 to accounts receivable that ~~which~~ arise outside the taxpayer's
30 ordinary course of trade or business. For the purposes of this
31 chapter, the term "accounts receivable" means a business debt

CONFERENCE COMMITTEE AMENDMENT

Bill No. CS for SB 318, 1st Eng.

Amendment No. 1

1 that is owed by another to the taxpayer or the taxpayer's
2 assignee in the ordinary course of trade or business and is
3 not supported by negotiable instruments. Accounts receivable
4 include, but are not limited to, credit card receivables,
5 charge card receivables, credit receivables, margin
6 receivables, inventory or other floor plan financing, lease
7 payments past due, conditional sales contracts, retail
8 installment sales agreements, financing lease contracts, and a
9 claim against a debtor usually arising from sales or services
10 rendered and which is not necessarily due or past due. The
11 examples specified in this paragraph shall be deemed not to be
12 supported by negotiable instruments. The term "negotiable
13 instrument" means a written document that is legally capable
14 of being transferred by indorsement or delivery. The term
15 "indorsement" means the act of a payee or holder in writing
16 his or her name on the back of an instrument without further
17 qualifying words other than "pay to the order of" or "pay to"
18 whereby the property is assigned and transferred to another.

19 (2)

20 (b) With respect to the last 0.5 mill of the annual
21 tax, every natural person is entitled each year to an
22 exemption of the first \$100,000 of the value of property
23 otherwise subject to said tax. A husband and wife filing
24 jointly shall have an exemption of \$200,000.

25
26 Agents and fiduciaries, other than guardians and custodians
27 under a gifts-to-minors act, filing as such may not claim this
28 exemption on behalf of their principals or beneficiaries;
29 however, if the principal or beneficiary returns the property
30 held by the agent or fiduciary and is a natural person, the
31 principal or beneficiary may claim the exemption. No taxpayer

CONFERENCE COMMITTEE AMENDMENT

Bill No. CS for SB 318, 1st Eng.

Amendment No. 1

1 shall be entitled to more than one exemption under paragraph
2 (a) and one exemption under paragraph (b). This exemption
3 shall not apply to that intangible personal property described
4 in s. 199.023(1)(d).

5 Section 6. This act shall take effect January 1, 2000.

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8 ===== T I T L E A M E N D M E N T =====

9 And the title is amended as follows:

10 Delete everything before the enacting clause,

11

12 and insert:

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A bill to be entitled

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An act relating to intangible property taxes;

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amending s. 199.023, F.S.; changing the term

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"affiliated group of corporations" to the term

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"affiliated group" and including limited

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liability companies within its meaning;

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amending s. 199.033, F.S.; reducing the rates

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of the tax on securities in a Florida Futures

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Investment Fund to conform; amending s.

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199.052, F.S.; providing that limited liability

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companies may elect to file a consolidated

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intangibles tax return; amending s. 199.032,

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F.S.; reducing the rate of such taxes; amending

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s. 199.185, F.S.; prescribing the amount of

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accounts receivable subject to the tax as of

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January 1, 2000; providing that an exemption

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applies to the last 0.5 mill of the annual tax;

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providing an effective date.

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