

1                   A bill to be entitled  
2           An act relating to intangible property taxes;  
3           amending s. 199.023, F.S.; changing the term  
4           "affiliated group of corporations" to the term  
5           "affiliated group" and including limited  
6           liability companies within its meaning;  
7           amending s. 199.052, F.S.; providing that  
8           limited liability companies may elect to file a  
9           consolidated intangibles tax return; amending  
10          s. 199.032, F.S.; reducing the rate of such  
11          taxes; amending s. 199.185, F.S.; prescribing  
12          the amount of accounts receivable subject to  
13          the tax as of January 1, 2000; providing that  
14          an exemption applies to the last 0.5 mill of  
15          the annual tax; providing an effective date.

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17   Be It Enacted by the Legislature of the State of Florida:

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

21           199.023 Definitions.--As used in this chapter:

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

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

1 limited liability company of each corporation or limited  
2 liability company, except for the common parent corporation or  
3 limited liability company, is owned directly by one or more of  
4 the other corporations; and

5 (b) The common parent corporation or limited liability  
6 company directly owns stock or membership interest in a  
7 limited liability company possessing at least 80 percent of  
8 the voting power of all classes of stock or membership  
9 interest in a limited liability company and at least 80  
10 percent of each class of the nonvoting stock or membership  
11 interest in a limited liability company of at least one of the  
12 other corporations or limited liability companies.

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

20 Section 2. Subsection (10) of section 199.052, Florida  
21 Statutes, 1998 Supplement, is amended to read:

22 199.052 Annual tax returns; payment of annual tax.--

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

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

24 Section 3. Section 199.032, Florida Statutes, is  
25 amended to read:

26 199.032 Levy of annual tax.--An annual tax of 1.5 ~~2~~  
27 mills is ~~hereby~~ imposed on each dollar of the just valuation  
28 of all intangible personal property that ~~which~~ has a taxable  
29 situs in this state, except for notes and other obligations  
30 for the payment of money, other than bonds, which are secured  
31 by mortgage, deed of trust, or other lien upon real property

1 situated in the state. This tax shall be assessed and  
2 collected as provided in this chapter.

3 Section 4. Paragraph (1) of subsection (1) and  
4 paragraph (b) of subsection (2) of section 199.185, Florida  
5 Statutes, 1998 Supplement, are amended to read:

6 199.185 Property exempted from annual and nonrecurring  
7 taxes.--

8 (1) The following intangible personal property shall  
9 be exempt from the annual and nonrecurring taxes imposed by  
10 this chapter:

11 (1) Two-thirds ~~One-third~~ of the accounts receivable  
12 arising or acquired in the ordinary course of a trade or  
13 business which are owned, controlled, or managed by a taxpayer  
14 on January 1, 2000 ~~1999~~, and thereafter. It is the intent of  
15 the Legislature that, pursuant to future legislative action,  
16 the portion of such accounts receivable exempt from taxation  
17 be increased to ~~two-thirds for taxes levied on January 1,~~  
18 ~~2000, and further increased to~~ all such accounts receivable on  
19 January 1, 2001, and thereafter. This exemption does not apply  
20 to accounts receivable that ~~which~~ arise outside the taxpayer's  
21 ordinary course of trade or business. For the purposes of this  
22 chapter, the term "accounts receivable" means a business debt  
23 that is owed by another to the taxpayer or the taxpayer's  
24 assignee in the ordinary course of trade or business and is  
25 not supported by negotiable instruments. Accounts receivable  
26 include, but are not limited to, credit card receivables,  
27 charge card receivables, credit receivables, margin  
28 receivables, inventory or other floor plan financing, lease  
29 payments past due, conditional sales contracts, retail  
30 installment sales agreements, financing lease contracts, and a  
31 claim against a debtor usually arising from sales or services

1 rendered and which is not necessarily due or past due. The  
2 examples specified in this paragraph shall be deemed not to be  
3 supported by negotiable instruments. The term "negotiable  
4 instrument" means a written document that is legally capable  
5 of being transferred by indorsement or delivery. The term  
6 "indorsement" means the act of a payee or holder in writing  
7 his or her name on the back of an instrument without further  
8 qualifying words other than "pay to the order of" or "pay to"  
9 whereby the property is assigned and transferred to another.

10 (2)

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

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

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