

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. 199.033, F.S.; reducing the rates  
8           of the tax on securities in a Florida Futures  
9           Investment Fund to conform; amending s.  
10          199.052, F.S.; providing that limited liability  
11          companies may elect to file a consolidated  
12          intangibles tax return; amending s. 199.032,  
13          F.S.; reducing the rate of such taxes; amending  
14          s. 199.185, F.S.; prescribing the amount of  
15          accounts receivable subject to the tax as of  
16          January 1, 2000; providing that an exemption  
17          applies to the last 0.5 mill of the annual tax;  
18          providing an effective date.

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

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

24           199.023 Definitions.--As used in this chapter:

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

30           (a) Stock or membership interest in a limited  
31 liability company possessing at least 80 percent of the voting

1 power of all classes of stock or membership interest in a  
2 limited liability company and at least 80 percent of each  
3 class of the nonvoting stock or membership interest in a  
4 limited liability company of each corporation or limited  
5 liability company, except for the common parent corporation or  
6 limited liability company, is owned directly by one or more of  
7 the other corporations or limited liability companies; and

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

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

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

25 199.033 Securities in a Florida's Future Investment  
26 Fund; tax rate.--

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

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

5 199.052 Annual tax returns; payment of annual tax.--

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

1 taxpayer's right to file a consolidated return, provided that  
2 the failure to file a consolidated return is limited to 1 year  
3 and the taxpayer's intent to file a consolidated return is  
4 evidenced by the taxpayer having filed a consolidated return  
5 for the 3 years prior to the year the return was not timely  
6 filed.

7 Section 4. Section 199.032, Florida Statutes, is  
8 amended to read:

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

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

20 199.185 Property exempted from annual and nonrecurring  
21 taxes.--

22 (1) The following intangible personal property shall  
23 be exempt from the annual and nonrecurring taxes imposed by  
24 this chapter:

25 (1) Two-thirds ~~One-third~~ of the accounts receivable  
26 arising or acquired in the ordinary course of a trade or  
27 business which are owned, controlled, or managed by a taxpayer  
28 on January 1, 2000 ~~1999~~, and thereafter. It is the intent of  
29 the Legislature that, pursuant to future legislative action,  
30 the portion of such accounts receivable exempt from taxation  
31 be increased to ~~two-thirds for taxes levied on January 1,~~

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

24 (2)

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

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1 Agents and fiduciaries, other than guardians and custodians  
2 under a gifts-to-minors act, filing as such may not claim this  
3 exemption on behalf of their principals or beneficiaries;  
4 however, if the principal or beneficiary returns the property  
5 held by the agent or fiduciary and is a natural person, the  
6 principal or beneficiary may claim the exemption. No taxpayer  
7 shall be entitled to more than one exemption under paragraph  
8 (a) and one exemption under paragraph (b). This exemption  
9 shall not apply to that intangible personal property described  
10 in s. 199.023(1)(d).

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

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