

**STORAGE NAME:** h0963.ag

**DATE:** March 19, 1999

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
AGRICULTURE  
ANALYSIS**

**BILL #:** HB 963

**RELATING TO:** Tax on sales, use, and other transactions

**SPONSOR(S):** Representative Albright

**COMPANION BILL(S):** SB 2498 (s) by Senator Kirkpatrick

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

- (1) AGRICULTURE
  - (2) FINANCE & TAXATION
  - (3) GENERAL GOVERNMENT APPROPRIATIONS
  - (4)
  - (5)
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**I. SUMMARY:**

Florida law requires 6 percent sales tax to be charged on sales of tangible personal property. Currently, under s. 212.05, F.S., sales of boats and airplanes to nonresidents are exempt from Florida sales tax when the boat or plane is removed from Florida.

HB 963 exempts from state sales tax Thoroughbred horse sales to non-state residents if the horse is removed from the state within 10 days of the purchase. Proof of this removal must be provided to the seller through shipping invoices, bills of lading, or other similar documentation, and the seller must retain the documentation as business records.

HB 963 has not yet been examined by the Revenue Estimating Conference, and its fiscal impact has not been determined.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

There are approximately 600 Thoroughbred horse farms and training centers in Florida, with more than 75 percent of them located in the Ocala/Marion County area. Florida's investment in breeding farms, training centers, breeding and racing stock creates an economic impact of an estimated \$1 billion.

Florida law requires 6 percent sales tax on sales of tangible personal property. Currently, sales of horses to out-of-state residents are subject to state sales taxes, unless the seller delivers the horse out of state or arranges for such delivery. Under s. 212.05, F.S., sales of boats and airplanes to nonresidents of the state are exempt from Florida sales tax when the boat or plane is removed from Florida.

B. EFFECT OF PROPOSED CHANGES:

HB 963 exempts from state sales tax Thoroughbred horse sales to non-state residents if the horse is removed from the state within 10 days of purchase. The purchaser must execute an affidavit stating that the horse will be removed from the state and proof of this removal must be provided to the seller through shipping invoices, bills of lading, or other documentation. The seller must retain the affidavit and other documentation of removal as business records for as long as records are required to be kept pursuant to s. 213.35, F.S.

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?

No.

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

As with any tax law change, the Department of Revenue would be required to identify affected taxpayers, create new forms, change internal processes, draft and promulgate rule amendments, prepare a Taxpayer Information Publication to be sent to affected parties, and notify the public on how to comply with the new law.

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

No.

b. If an agency or program is eliminated or reduced: **Not applicable.**

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

(2) what is the cost of such responsibility at the new level/agency?

(3) how is the new agency accountable to the people governed?

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. The bill creates a new sales tax exemption.
- 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: **Not applicable.**

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?
- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

5. Family Empowerment: **Not applicable.**

- a. If the bill purports to provide services to families or children:
  - (1) Who evaluates the family's needs?
  - (2) Who makes the decisions?
  - (3) Are private alternatives permitted?

(4) Are families required to participate in a program?

(5) Are families penalized for not participating in a program?

b. Does the bill directly affect the legal rights and obligations between family members?

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?

(2) service providers?

(3) government employees/agencies?

D. STATUTE(S) AFFECTED:

Section 212.05, Florida Statutes

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides a sales tax exemption for the sale of a thoroughbred horse to a nonresident if the horse is removed from the state within 10 days of the sale.

Section 2: Provides that the act shall take effect July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT: **PLEASE SEE FISCAL COMMENT SECTION.**

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

2. Recurring Effects:

3. Long Run Effects Other Than Normal Growth:

4. Total Revenues and Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

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2. Recurring Effects:

3. Long Run Effects Other Than Normal Growth:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

2. Direct Private Sector Benefits:

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

D. FISCAL COMMENTS:

HB 963 has not yet been examined by the Revenue Estimating Conference, and its fiscal impact has not been determined.

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 authority of municipalities and counties to raise revenues, the impact is expected 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:

While the bill will reduce the amount of the Local Government Half Cent Sales Tax shared with municipalities and counties, it does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(b), Florida Constitution does not apply.

V. COMMENTS:

The following issues are identified in the bill analysis of HB 963 by the Department of Revenue (department):

- Statutory language that provides exemptions to non-resident purchasers of boats and airplanes also provides penalties on those purchasers that fail to properly remove the boats or airplanes. Similar provisions for non-resident purchasers of Thoroughbred horses should be included in the bill.
- The subject matter would more appropriately added to s. 212.07, F.S.
- The bill should provide a definition of "Thoroughbred horse."
- The bill needs to specify affidavit language indicating that the removal of the horse will be within 10 days. In addition, language needs to specify when the affidavit is required to be given.
- The bill needs to provide when the proof of removal is required to be provided, and authorize the department to determine what "similar documentation" it deems appropriate.

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- The department suggests that the effective date be changed from July 1, 1999, to January 1, 2000, to “allow the department to devote more time and effort to execute a more thorough and better planned implementation, resulting in increased compliance by affected taxpayers.”

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

Prepared by:

Staff Director:

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