

By Representative Fasano

1                                   A bill to be entitled  
2           An act relating to taxation; amending s.  
3           199.023, F.S.; revising the definition of a  
4           "beneficial interest" in a trust for intangible  
5           personal property tax purposes; amending s.  
6           199.052, F.S.; providing that a trustee is not  
7           responsible for returns and is not required to  
8           pay annual tax on trust property; providing  
9           that a Florida resident with a beneficial  
10          interest in a trust is responsible for returns  
11          and payment of tax for his or her equitable  
12          share; revising provisions relating to the  
13          responsibilities of a bank or savings  
14          association acting as agent of a trust other  
15          than as a trustee and providing that its  
16          management or control shall not be used as a  
17          basis for imposing the annual tax; providing  
18          that intangible assets managed by a fiduciary  
19          or agent shall not have taxable situs in this  
20          state solely by virtue of such management;  
21          amending s. 199.175, F.S.; revising the  
22          definition of "any person domiciled in this  
23          state"; amending s. 199.183, F.S.; providing  
24          that intangible personal property owned,  
25          managed, or controlled by a trustee of a trust  
26          is exempt from the annual tax; amending s.  
27          199.185, F.S.; providing that all accounts  
28          receivable are exempt from intangible personal  
29          property taxes; revising application of the  
30          exemption from the annual tax granted to  
31          natural persons and increasing the exemption;

1 providing intent; amending s. 199.292, F.S.;  
2 eliminating distribution of a portion of  
3 intangible personal property tax revenues to  
4 the Revenue Sharing Trust Fund for Counties;  
5 amending s. 212.20, F.S.; providing for  
6 distribution of a portion of sales and use tax  
7 proceeds to the trust fund; amending s. 218.23,  
8 F.S.; providing for an annual distribution from  
9 the trust fund to certain consolidated units of  
10 local government; amending s. 288.1169, F.S.;  
11 correcting a reference; repealing s. 218.251,  
12 F.S., which provides for an additional  
13 distribution to certain consolidated  
14 governments, subject to annual appropriations;  
15 providing an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19 Section 1. (1) Subsection (7) of section 199.023,  
20 Florida Statutes, is amended to read:

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

22 (7) A resident has a "beneficial interest" in a  
23 ~~foreign~~ trust if the resident has a vested interest, even if  
24 subject to divestment, which includes at least a current right  
25 to income and either a power to revoke the trust or a general  
26 power of appointment, as defined in 26 U.S.C. s. 2041(b)(1).

27 (2) This section is effective for tax years beginning  
28 after December 31, 2000.

29 Section 2. (1) Subsections (5), (6), (9), and (15) of  
30 section 199.052, Florida Statutes, are amended to read:

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

1           (5) The trustee of a ~~Florida-situs~~ trust is not  
2 ~~primarily~~ responsible for returning the trust's intangible  
3 personal property and is not required to pay any ~~paying the~~  
4 annual tax on it~~.~~

5           ~~(a) A trust has a Florida situs when:~~

6           ~~1. All trustees are residents of the state;~~

7           ~~2. There are three or more trustees sharing equally in~~  
8 ~~the ownership, management, or control of the trust's~~  
9 ~~intangible property, and the majority of the trustees are~~  
10 ~~residents of this state; or~~

11           ~~3. Trustees consist of both residents and nonresidents~~  
12 ~~and management or control of the trust is with a resident~~  
13 ~~trustee.~~

14           ~~(b) When trustees consist of both residents and~~  
15 ~~nonresidents and management or control is with a nonresident~~  
16 ~~trustee, the trust does not have Florida situs and no return~~  
17 ~~is necessary by any resident trustee.~~

18           ~~(c) A portion of the trust has Florida situs when~~  
19 ~~there are two trustees, one a resident of this state and one a~~  
20 ~~nonresident, and they share equally in the ownership,~~  
21 ~~management, or control of the trust's intangible property. The~~  
22 ~~tax on such property shall be based on the value apportioned~~  
23 ~~between them.~~

24           ~~(d) If there is more than one trustee in the state,~~  
25 ~~only one tax return for the trust must be filed.~~

26           ~~(e) The trust's beneficiaries, however, may~~  
27 ~~individually return their equitable shares of the trust's~~  
28 ~~intangible personal property and pay the tax on such shares,~~  
29 ~~in which case the trustee need not return such property or pay~~  
30 ~~such tax, although the department may require the trustee to~~  
31 file an informational return.

1           (6) Each Florida resident with a beneficial interest,  
2 as defined in s. 199.023(7), in a ~~foreign situs trust, that~~  
3 ~~is, a trust with situs outside of this state, is primarily~~  
4 responsible for returning the resident's equitable share of  
5 the trust's intangible personal property and paying the annual  
6 tax on it. The trustee of a ~~foreign~~ trust may return and pay  
7 the tax on the equitable shares of all Florida residents  
8 having beneficial interests, in which case the residents need  
9 not return such property or pay such tax.

10           (9) Where an agent other than a trustee has control or  
11 management of intangible personal property, the principal is  
12 primarily responsible for returning such property and paying  
13 the annual tax on it, but the agent shall return such property  
14 on behalf of the principal and pay the annual tax on it if the  
15 principal fails to do so. The department may in any case  
16 require the agent to file an informational return.

17           (15) If a bank or savings association, as defined in  
18 s. 220.62, acts as a fiduciary or agent of a trust other than  
19 as a trustee, the bank or savings association is not  
20 responsible for returning the trust's intangible personal  
21 property and is not required to pay any annual tax on it, and  
22 ~~intangible personal property of the trust shall not have~~  
23 ~~taxable situs in this state pursuant to s. 199.175 solely by~~  
24 ~~virtue of the management or control of the bank or savings~~  
25 association shall not be used as the basis for imposing any  
26 annual tax on any person or any assets of the trust. If a  
27 person acts as a fiduciary or agent for purposes of managing  
28 intangible assets owned by another person, such intangible  
29 assets shall not have a taxable situs in this state pursuant  
30 to s. 199.175 solely by virtue of the management or control of  
31 such assets by the person who is not the owner of the assets.

1           (2) This section is effective for tax years beginning  
2 after December 31, 2000.

3           Section 3. (1) Paragraph (a) of subsection (1) of  
4 section 199.175, Florida Statutes, is amended to read:

5           199.175 Taxable situs.--For purposes of the annual tax  
6 imposed under this chapter:

7           (1) Intangible personal property shall have a taxable  
8 situs in this state when it is owned, managed, or controlled  
9 by any person domiciled in this state on January 1 of the tax  
10 year. Such intangibles shall be subject to annual taxation  
11 under this chapter, unless the person who owns, manages, or  
12 controls them is specifically exempt or unless the property is  
13 specifically exempt. This provision shall apply regardless of  
14 where the evidence of the intangible property is kept; where  
15 the intangible is created, approved, or paid; or where  
16 business may be conducted from which the intangible arises.  
17 The fact that a Florida corporation owns the stock of an  
18 out-of-state corporation and manages and controls such  
19 corporation from a location in this state shall not operate to  
20 give a taxable situs in this state to the intangibles owned by  
21 the out-of-state corporation, which intangibles arise out of  
22 business transacted outside this state.

23           (a) For the purposes of this chapter, "any person  
24 domiciled in this state" means:

25           1. Any natural person who is a legal resident of this  
26 state;

27           2. Any bank or financial institution, business,  
28 business trust as described in chapter 609, company,  
29 corporation, insurance company, partnership, or other  
30 artificial entity organized or created under the law of this  
31 state, except a trust; or

1           3. Any person, including a business trust, who has  
2 established a commercial domicile in this state.

3           (2) This section is effective for tax years beginning  
4 after December 31, 2000.

5           Section 4. (1) Subsection (4) is added to section  
6 199.183, Florida Statutes, to read:

7           199.183 Taxpayers exempt from annual and nonrecurring  
8 taxes.--

9           (4) Intangible personal property that is owned,  
10 managed, or controlled by a trustee of a trust is exempt from  
11 annual tax under this chapter. This exemption does not exempt  
12 from annual tax a resident of this state who has a taxable  
13 beneficial interest, as defined in s. 199.023, in a trust.

14           (2) This section is effective for tax years beginning  
15 after December 31, 2000.

16           Section 5. (1) Paragraph (1) of subsection (1) and  
17 subsection (2) of section 199.185, Florida Statutes, are  
18 amended to read:

19           199.185 Property exempted from annual and nonrecurring  
20 taxes.--

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

24           (1) All ~~Two-thirds of the~~ accounts receivable arising  
25 or acquired in the ordinary course of a trade or business  
26 which are owned, controlled, or managed by a taxpayer ~~on~~  
27 ~~January 1, 2000, and thereafter. It is the intent of the~~  
28 ~~Legislature that, pursuant to future legislative action, the~~  
29 ~~portion of such accounts receivable exempt from taxation be~~  
30 ~~increased to all such accounts receivable on January 1, 2001,~~  
31 and thereafter. This exemption does not apply to accounts

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

22 ~~(2)(a) With respect to the first mill of the annual~~  
23 ~~tax, Every natural~~ person is entitled each year to an  
24 exemption of the first \$200,000 ~~\$20,000~~ of the value of  
25 property otherwise subject to the annual ~~said~~ tax. A husband  
26 and wife filing jointly shall have an exemption of \$400,000  
27 ~~\$40,000~~.

28 ~~(b) With respect to the last 0.5 mill of the annual~~  
29 ~~tax, every natural person is entitled each year to an~~  
30 ~~exemption of the first \$100,000 of the value of property~~  
31

1 ~~otherwise subject to said tax. A husband and wife filing~~  
2 ~~jointly shall have an exemption of \$200,000.~~  
3  
4 Agents and fiduciaries, other than guardians and custodians  
5 under a gifts-to-minors act, filing as such may not claim this  
6 exemption on behalf of their principals or beneficiaries;  
7 however, if the principal or beneficiary returns the property  
8 held by the agent or fiduciary and is a natural person, the  
9 principal or beneficiary may claim the exemption. No taxpayer  
10 shall be entitled to more than one exemption under this  
11 subsection paragraph (a) and one exemption under paragraph  
12 ~~(b)~~. This exemption shall not apply to that intangible  
13 personal property described in s. 199.023(1)(d).

14 (2) This section is effective for tax years beginning  
15 after December 31, 2000.

16 Section 6. It is the intent of the Legislature to  
17 eliminate the intangible personal property tax by increasing  
18 the standard exemption in order to remove additional  
19 individuals, families, and small business from the tax rolls  
20 each year.

21 Section 7. Subsection (3) of section 199.292, Florida  
22 Statutes, is amended to read:

23 199.292 Disposition of intangible personal property  
24 taxes.--All intangible personal property taxes collected  
25 pursuant to this chapter shall be placed in a special fund  
26 designated as the "Intangible Tax Trust Fund." The fund shall  
27 be disbursed as follows:

28 (3) Of the remaining intangible personal property  
29 taxes collected, the balance ~~an amount equal to 35.3 percent~~  
30 ~~in state fiscal year 1998-1999 and an amount equal to 37.7~~  
31 ~~percent in each year thereafter, shall be transferred to the~~

1 ~~Revenue Sharing Trust Fund for Counties. Of the remaining~~  
2 ~~taxes collected, an amount equal to 64.7 percent in state~~  
3 ~~fiscal year 1998-1999 and an amount equal to 62.3 percent in~~  
4 ~~each year thereafter, shall be transferred to the General~~  
5 Revenue Fund of the state.

6 Section 8. Paragraph (f) of subsection (6) of section  
7 212.20, Florida Statutes, is amended to read:

8 212.20 Funds collected, disposition; additional powers  
9 of department; operational expense; refund of taxes  
10 adjudicated unconstitutionally collected.--

11 (6) Distribution of all proceeds under this chapter  
12 shall be as follows:

13 (f) The proceeds of all other taxes and fees imposed  
14 pursuant to this chapter shall be distributed as follows:

15 1. In any fiscal year, the greater of \$500 million,  
16 minus an amount equal to 4.6 percent of the proceeds of the  
17 taxes collected pursuant to chapter 201, or 5 percent of all  
18 other taxes and fees imposed pursuant to this chapter shall be  
19 deposited in monthly installments into the General Revenue  
20 Fund.

21 2. Two-tenths of one percent shall be transferred to  
22 the Solid Waste Management Trust Fund.

23 3. After the distribution under subparagraphs 1. and  
24 2., 9.653 percent of the amount remitted by a sales tax dealer  
25 located within a participating county pursuant to s. 218.61  
26 shall be transferred into the Local Government Half-cent Sales  
27 Tax Clearing Trust Fund.

28 4. After the distribution under subparagraphs 1., 2.,  
29 and 3., 0.054 percent shall be transferred to the Local  
30 Government Half-cent Sales Tax Clearing Trust Fund and  
31 distributed pursuant to s. 218.65.

1           5. For proceeds received after July 1, 2000, and after  
2 the distributions under subparagraphs 1., 2., 3., and 4., 2.25  
3 percent of the available proceeds pursuant to this paragraph  
4 shall be transferred monthly to the Revenue Sharing Trust Fund  
5 for Counties pursuant to s. 218.215.

6           ~~6.5.~~ Of the remaining proceeds:

7           a. Beginning July 1, 1992, \$166,667 shall be  
8 distributed monthly by the department to each applicant that  
9 has been certified as a "facility for a new professional  
10 sports franchise" or a "facility for a retained professional  
11 sports franchise" pursuant to s. 288.1162 and \$41,667 shall be  
12 distributed monthly by the department to each applicant that  
13 has been certified as a "new spring training franchise  
14 facility" pursuant to s. 288.1162. Distributions shall begin  
15 60 days following such certification and shall continue for 30  
16 years. Nothing contained herein shall be construed to allow an  
17 applicant certified pursuant to s. 288.1162 to receive more in  
18 distributions than actually expended by the applicant for the  
19 public purposes provided for in s. 288.1162(7). However, a  
20 certified applicant shall receive distributions up to the  
21 maximum amount allowable and undistributed under this section  
22 for additional renovations and improvements to the facility  
23 for the franchise without additional certification.

24           b. Beginning 30 days after notice by the Office of  
25 Tourism, Trade, and Economic Development to the Department of  
26 Revenue that an applicant has been certified as the  
27 professional golf hall of fame pursuant to s. 288.1168 and is  
28 open to the public, \$166,667 shall be distributed monthly, for  
29 up to 300 months, to the applicant.

30           c. Beginning 30 days after notice by the Department of  
31 Commerce to the Department of Revenue that the applicant has

1 | been certified as the International Game Fish Association  
2 | World Center facility pursuant to s. 288.1169, and the  
3 | facility is open to the public, \$83,333 shall be distributed  
4 | monthly, for up to 180 months, to the applicant. This  
5 | distribution is subject to reduction pursuant to s. 288.1169.

6 |         ~~7.6.~~ All other proceeds shall remain with the General  
7 | Revenue Fund.

8 |         Section 9. Section 218.23, Florida Statutes, is  
9 | amended to read:

10 |         218.23 Revenue sharing with units of local  
11 | government.--

12 |         (1) To be eligible to participate in revenue sharing  
13 | beyond the minimum entitlement in any fiscal year, a unit of  
14 | local government is required to have:

15 |             (a) Reported its finances for its most recently  
16 | completed fiscal year to the Department of Banking and  
17 | Finance, pursuant to s. 218.32.

18 |             (b) Made provisions for annual postaudits of its  
19 | financial accounts in accordance with provisions of law.

20 |             (c) Levied, as shown on its most recent financial  
21 | report pursuant to s. 218.32, ad valorem taxes, exclusive of  
22 | taxes levied for debt service or other special millages  
23 | authorized by the voters, to produce the revenue equivalent to  
24 | a millage rate of 3 mills on the dollar based on the 1973  
25 | taxable values as certified by the property appraiser pursuant  
26 | to s. 193.122(2) or, in order to produce revenue equivalent to  
27 | that which would otherwise be produced by such 3-mill ad  
28 | valorem tax, to have received a remittance from the county  
29 | pursuant to s. 125.01(6)(a), collected an occupational license  
30 | tax or a utility tax, levied an ad valorem tax, or received  
31 | revenue from any combination of these four sources. If a new

1 municipality is incorporated, the provisions of this paragraph  
2 shall apply to the taxable values for the year of  
3 incorporation as certified by the property appraiser. This  
4 paragraph requires only a minimum amount of revenue to be  
5 raised from the ad valorem tax, the occupational license tax,  
6 and the utility tax. It does not require a minimum millage  
7 rate.

8 (d) Certified that persons in its employ as law  
9 enforcement officers, as defined in s. 943.10(1), meet the  
10 qualifications for employment as established by the Criminal  
11 Justice Standards and Training Commission; that its salary  
12 structure and salary plans meet the provisions of chapter 943;  
13 and that no law enforcement officer is compensated for his or  
14 her services at an annual salary rate of less than \$6,000.  
15 However, the department may waive the minimum law enforcement  
16 officer salary requirement if a city or county certifies that  
17 it is levying ad valorem taxes at 10 mills.

18 (e) Certified that persons in its employ as  
19 firefighters, as defined in s. 633.30(1), meet the  
20 qualification for employment as established by the Division of  
21 State Fire Marshal pursuant to the provisions of ss. 633.34  
22 and 633.35 and that the provisions of s. 633.382 have been  
23 met.

24 (f) Certified that each dependent special district  
25 that is budgeted separately from the general budget of the  
26 local governing authority has met the provisions for annual  
27 postaudit of its financial accounts in accordance with the  
28 provisions of law.

29  
30 Additionally, to receive its share of revenue sharing funds, a  
31 unit of local government shall certify to the Department of

1 Revenue that the requirements of s. 200.065, if applicable,  
2 were met. The certification shall be made annually within 30  
3 days of adoption of an ordinance or resolution establishing a  
4 final property tax levy or, if no property tax is levied, not  
5 later than November 1. The portion of revenue sharing funds  
6 which, pursuant to this part, would otherwise be distributed  
7 to a unit of local government which has not certified  
8 compliance or has otherwise failed to meet the requirements of  
9 s. 200.065 shall be deposited in the General Revenue Fund for  
10 the 12 months following a determination of noncompliance by  
11 the department.

12 (2) Any unit of local government which is consolidated  
13 as provided by s. 9, Art. VIII of the State Constitution of  
14 1885, as preserved by s. 6(e), Art. VIII of the 1968 revised  
15 constitution, shall receive an annual distribution from the  
16 Revenue Sharing Trust Fund for Counties equal to \$6.24 times  
17 its population.

18 ~~(3)~~(2) The distribution to a unit of local government  
19 under this part is determined by the following formula:

20 (a) First, the entitlement of an eligible unit of  
21 local government shall be computed on the basis of the  
22 apportionment factor provided in s. 218.245, which shall be  
23 applied for all eligible units of local government to all  
24 receipts available for distribution in the respective revenue  
25 sharing trust fund.

26 (b) Second, revenue shared with eligible units of  
27 local government for any fiscal year shall be adjusted so that  
28 no eligible unit of local government receives less funds than  
29 its guaranteed entitlement.

30 (c) Third, revenues shared with counties for any  
31 fiscal year shall be adjusted so that no county receives less

1 funds than its guaranteed entitlement plus the second  
2 guaranteed entitlement for counties.

3 (d) Fourth, revenue shared with units of local  
4 government for any fiscal year shall be adjusted so that no  
5 unit of local government receives less funds than its minimum  
6 entitlement.

7 (e) Fifth, after the adjustments provided in  
8 paragraphs (b), (c), and (d), and after deducting the amount  
9 committed to all the units of local government, the funds  
10 remaining in the respective trust funds shall be distributed  
11 to those eligible units of local government which qualify to  
12 receive additional moneys beyond the guaranteed entitlement,  
13 on the basis of the additional money of each qualified unit of  
14 local government in proportion to the total additional money  
15 of all qualified units of local government.

16 (4)~~(3)~~ Notwithstanding the provisions of paragraph  
17 (1)(c), no unit of local government which was eligible to  
18 participate in revenue sharing in the 3 years prior to  
19 initially participating in the local government half-cent  
20 sales tax shall be ineligible to participate in revenue  
21 sharing solely due to a millage or utility tax reduction  
22 afforded by the local government half-cent sales tax.

23 Section 10. Subsection (6) of section 288.1169,  
24 Florida Statutes, is amended to read:

25 288.1169 International Game Fish Association World  
26 Center facility; department duties.--

27 (6) The Department of Commerce must recertify every 10  
28 years that the facility is open, that the International Game  
29 Fish Association World Center continues to be the only  
30 international administrative headquarters, fishing museum, and  
31 Hall of Fame in the United States recognized by the

1 International Game Fish Association, and that the project is  
2 meeting the minimum projections for attendance or sales tax  
3 revenues as required at the time of original certification.  
4 If the facility is not recertified during this 10-year review  
5 as meeting the minimum projections, then funding will be  
6 abated until certification criteria are met. If the project  
7 fails to generate \$1 million of annual revenues pursuant to  
8 paragraph (2)(e), the distribution of revenues pursuant to s.  
9 212.20(6)(f)~~6.5-c.~~ shall be reduced to an amount equal to  
10 \$83,333 multiplied by a fraction, the numerator of which is  
11 the actual revenues generated and the denominator of which is  
12 \$1 million. Such reduction shall remain in effect until  
13 revenues generated by the project in a 12-month period equal  
14 or exceed \$1 million.

15 Section 11. Section 218.251, Florida Statutes, is  
16 repealed.

17 Section 12. This act shall take effect July 1, 2000.  
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HOUSE SUMMARY

Revises the definition of a "beneficial interest" in a trust for intangible personal property tax purposes. Provides that a trustee is not responsible for returns and is not required to pay annual tax on trust property. Provides that a Florida resident with a beneficial interest in a trust is responsible for returns and payment of tax for his or her equitable share. Revises provisions relating to the responsibilities of a bank or savings association acting as agent of a trust other than as a trustee and provides that its management or control shall not be used as a basis for imposing the annual tax. Provides that intangible assets managed by a fiduciary or agent shall not have taxable situs in this state solely by virtue of such management. Provides that intangible personal property owned, managed, or controlled by a trustee of a trust is exempt from the annual tax.

Provides that all accounts receivable are exempt from intangible personal property taxes. Revises application of the exemption from the annual tax granted to natural persons and increases the exemption. Provides intent.

Eliminates distribution of a portion of intangible personal property tax revenues to the Revenue Sharing Trust Fund for Counties and provides for distribution of a portion of sales and use tax proceeds to the trust fund. Provides for an annual distribution from the trust fund to certain consolidated units of local government and removes provisions which provide for an additional distribution to certain consolidated governments, subject to annual appropriations.