

STORAGE NAME: h0349.bdt

DATE: December 9, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS DEVELOPMENT & INTERNATIONAL TRADE
ANALYSIS**

BILL #: HB 349

RELATING TO: Sales Tax Exemptions

SPONSOR(S): Representative Johnson

TIED BILL(S):

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

- (1) BUSINESS DEVELOPMENT & INTERNATIONAL TRADE
 - (2) COMMUNITY AFFAIRS
 - (3) FINANCE & TAXATION
 - (4) GENERAL GOVERNMENT APPROPRIATIONS
 - (5)
-

I. SUMMARY:

This bill revises the application of the tax exemption on the lease, sublease, license to use, or rental of property to a concessionaire by certain facilities. Publicly-owned theaters, civic centers, performing arts centers, and stadiums are now included in the existing list of facilities exempt from the tax. Additionally, this bill provides a tax exemption for property rented, leased, subleased, or licensed to a concessionaire selling event-related products, by a convention hall, auditorium, stadium, exhibition hall, recreational facility, theater, arena, civic center, or performing arts center, when the rental, lease, or license payment is based on a percentage of sales, and not a fixed price. This bill provides language specifically stating that certain charges to a lessee, or licensee of a facility for other services required, such as ticket takers, event staff, security personnel and other event related personnel, are exempt from the tax on the lease of the property.

This bill provides that the tax on admissions to certain events is computed on the value of the admissions charge and not on the total sales price. The total charge for the admission sometimes includes other charges such as: state or local seat surcharges; separately stated ticket service charges imposed by a facility ticket office; or a ticketing service fee. This bill provides an exemption to the admissions tax for events sponsored by certain government-owned facilities bearing 100 percent of the risk of success or failure for the event, and in which student or faculty talent is not exclusively used.

Finally, the bill provides that taxes imposed on the transactions exempted by the bill are not due to the Department of Revenue until the first day of the month following the actual date of the event for which the admission is sold. It further specifies that no taxes imposed by chapter 212, F.S., on the transactions exempted under the bill, and not actually paid or collected prior to the effective date, shall be due.

The effective date of the act is July 1, 2000.

This bill does not address the issue of rulemaking.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Section 212.031(1)(a), F.S., states that every person is exercising a taxable privilege who engages in the renting, leasing, letting, or granting of a licence for the use of any real property. There are several exemptions to the tax imposed on this privilege based on the type or use of the property. Sub-paragraph 10. of s. 212.031(1)(a), F.S., provides an exemption from the taxable privilege herein imposed when the property is leased, subleased, or rented to a person providing food and drink concessionaire services within the premises of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, recreation facility or a business operated under a permit issued for pari-mutuel activities pursuant to chapter 550, F.S.

Section 212.031(1)(c), F.S., imposes a tax rate of 6 percent of and on the total rent or license fee charged for such real property by the person charging or collecting the rental or license fee. Additionally, s. 212.031(3), F.S., provides that the owner, lessor, or person receiving the rent or license fee shall remit the tax to the department at the times and in the manner provided by chapter 212, F.S., for dealers.

Section 212.04(1)(a), F.S., provides that it is a taxable privilege to sell or receive anything of value by way of admissions. Paragraph (b) of this subsection provides the tax rate of 6 percent for such privilege and specifies the rate shall be computed after deducting any federal taxes imposed on the admission. Subsection (2)(a)1. of s. 212.04, F.S., provides exemptions to the tax levied on admissions for certain events. Subsection (3) of s. 212.04, F.S., provides that the admissions tax shall be paid and remitted at the same time and in the same manner as provided for remitting taxes on sales of tangible personal property.

During the 1999 legislative session, a substantially similar bill, CS/HB 1083, died on the House Calendar. However, the language found in section 1 of the bill revising the sales tax exemption on property leased, subleased, licensed, or rented to a person providing food and drink concessionaire services to include additional publicly-owned facilities such as: stadiums; theaters; civic centers; and performing arts centers, passed in section 1 of SB 1502, which became law as Chapter 99-270, Laws of Florida.

C. EFFECT OF PROPOSED CHANGES:

SECTION 1

Paragraph (a) of subsection (1) of s. 212.031, F.S., is amended by adding a new subparagraph 12. which provides an exemption for property rented, leased, subleased, or licensed by certain facilities to a concessionaire selling event-related products during an event at the facility when the rental, lease or license payment is based on a percentage of sales or profits and not on a fixed price. These facilities include:

- * Convention Halls;
- * Exhibition Halls;
- * Auditoriums;
- * Stadiums;
- * Theaters;
- * Arenas;
- * Civic Centers;
- * Performing Arts Centers; and
- * Recreational Facilities.

Subsection (3) of s. 212.031, F.S., is amended to specify that the tax imposed by this section on the rental, lease, or license for the use of certain facilities to hold an event of not more than seven consecutive days' duration shall be collected at the time of payment for that rental, lease, or license but is not due and payable to the department until the first day of the month following the last day that the event for which the payment is actually held. Payments for such tax becomes delinquent on the 21st day of that month.

Subsection (10) is added to s. 212.031, F.S., to provide a tax exemption for separately stated charges by a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or recreation facility to a lessee or licensee for food, drink, or services required or available in connection with a lease or license for the use of real property. Such charges include: laborers, stage hands, ticket takers, event staff, security personnel, cleaning staff, and other event-related personnel, advertising, and credit card processing.

Furthermore, language is provided that states no tax imposed on the transactions exempted under those sections of chapter 212, F.S., affected by section (1) of this bill, and not actually paid or collected by a taxpayer before the effective date of this act, shall be due from such taxpayer. However, any such taxes actually collected shall be remitted to the Department of Revenue, and no refund shall be due.

SECTION 2

Subsection (1)(b) of s. 212.04, F.S., is amended to state that the value of an admission on which the 6 percent tax rate is imposed does not include: state or local seat surcharges; taxes or fees; or separately stated service charges imposed by a facility ticket office or a ticketing service which is added to a separately stated, established ticket price.

A new sub-subparagraph c., is added to sub-paragraph 2., of subsection (2)(a), of s. 212.04, F.S., providing a tax exemption on admission charges to events sponsored by a governmental entity, a sports authority, or a sports commission when held in specified facilities when 100 percent of the risk of success or failure lies with the governmental entity

sponsoring the event and 100 percent of the funds at risk for the event belong to the sponsor and student or faculty talent is not exclusively used. Eligible facilities include:

- * Convention Halls;
- * Exhibition Halls;
- * Auditoriums;
- * Theaters;
- * Arenas;
- * Civic Centers;
- * Stadiums;
- * Performing Arts Centers; and
- * Recreational Facilities.

Subsection (3) of s. 212.04, F.S., is amended to state that the taxes imposed by this section are to be collected at the time of payment for the admission, but shall not be due to the Department of Revenue until the first day of the month following the actual date of the event for which the admission is sold. Such payments become delinquent on the 21st day of that month.

Finally, language is provided that states no tax imposed on transactions exempted under those sections of chapter 212, F.S., affected by section (2) of this bill, and not actually paid or collected by a taxpayer before the effective date of this act, shall be due from such taxpayer. However, any such taxes actually collected shall be remitted to the Department of Revenue and no refund shall be due.

The provisions of this bill take effect July 1, 2000.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

This bill has yet to be addressed by the Revenue Estimating Conference. However, during the 1999 legislative session, a substantially similar bill, CS/HB 1083, was estimated to have a fiscal impact upon General Revenue of (\$15.9) million for FY 99-2000 and (\$3.2) million for FY 2000-2001. There was projected to be a negative, but insignificant, impact on the Solid Waste Management Trust Fund. The estimated fiscal impact upon local governments was (\$2.5) million for FY 1999-2000 and (\$0.5) for FY2000-2001. The total estimated fiscal impact for CS/HB 1083 was (\$18.4) million for FY 1999-2000 and (\$3.7) million for FY 2000-2001.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT & INTERNATIONAL TRADE:

Prepared by:

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James M. Cox

J. Paul Whitfield, Jr.