STORAGE NAME: h0425a.fs
DATE: April 3, 2000

HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES
ANALYSIS

BILL #: HB 425

RELATING TO: Intangible personal property taxes

SPONSOR(S): Representative Melvin, and others

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) FINANCIAL SERVICES YEAS 10 NAYS 0
(2) FINANCE AND TAXATION
(3) GENERAL GOVERNMENT APPROPRIATIONS
(4)
(5)

I. SUMMARY:

Florida's intangible tax, enacted in 1931, is described in s. 199.023, F.S., as being a tax on "all personal property which is not in itself intrinsically valuable, but which derives its chief value from that which it represents." This section further describes taxable intangible personal property as including, among other things, stocks, bonds, notes, other obligations to pay money, and accounts receivable. The intangible tax has two parts: the annual and the nonrecurring. Nonrecurring taxes are paid on evidences of indebtedness secured by a note, such as a mortgage. Annual taxes are paid on stocks, bonds, accounts receivable, and other indications of wealth.

This bill would repeal the intangibles tax on personal property, effective January 1, 2001.

The fiscal impact of this bill would be negative and would correspond to the actual collection amount of the intangible tax. According to the General Revenue Consensus Estimating Conference Comparison Report from November, 1999, the estimated collections for FY 1998-1999 are roughly $976 million. According to the Report and Department of revenue projection, ballpark figures for FY 1999-2000 range between $700 and $750 million. Factoring in a growth rate of 4 percent, estimates for FY 2000-2001 range between $728 and $780 million.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes [x]	No []	N/A []
2.	Lower Taxes	Yes [x]	No []	N/A []
3.	Individual Freedom	Yes [x]	No []	N/A []
4.	Personal Responsibility	Yes [x]	No []	N/A []
5.	Family Empowerment	Yes []	No []	N/A [x]

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

B. PRESENT SITUATION:

Florida's intangible tax, enacted in 1931, is described in s. 199.023, F.S., as being a tax on "all personal property which is not in itself intrinsically valuable, but which derives its chief value from that which it represents." This section further describes taxable intangible personal property as including, among other things, stocks, bonds, notes, other obligations to pay money, and accounts receivable. The intangible tax has two parts: the annual and the nonrecurring. Nonrecurring taxes are paid on evidences of indebtedness secured by a note, such as a mortgage. Annual taxes are paid on stocks, bonds, accounts receivable, and other indications of wealth.

Intangible tax that is paid annually is based on the value of assets as of January 1. Section 199.103, F.S. The return is due by June 30 with discounts for early payment. Section 199.042, F.S. The tax is paid by all "persons" (natural and non-natural), which include any individual, firm, partnership, joint adventure, syndicate, or other group or combination acting as a unit, association, corporation, estate, trust, business trust, trustee, personal representative, receiver, or other fiduciary, unless such persons are exempted from the tax. Section 199.03(3), F.S. The tax must be paid by all corporations that own, control, or manage intangible personal property which has a taxable situs within the state. Section 199.052(1), F.S. The terms "control" or "manage" do not include any ministerial function or any processing activity. Section 199.052(1), F.S.

The tax rate is capped at 2 mills by Article VII, Section 2 of the Florida Constitution. The current tax rate is 2 mills ($2 per $1,000 of value). Section 199.032, F.S.[1] With respect to the first mill of the annual tax, every natural person is entitled each year to an exemption of the first $20,000 of the value of property otherwise subject to said tax. A husband and wife filing jointly enjoy an exemption of $40,000. With respect to the second mill of the annual tax, every natural person is entitled each year to an exemption of the first $100,000 of the value of property otherwise subject to said tax. A husband and wife filing jointly will have an exemption of $200,000. Section 199.185(2), F.S. For example, an individual who owns less than $100,000 of intangible personal property would enjoy an exemption of $20,000. An individual who owns more than $100,000 of intangible personal property would enjoy an

[1]Banks and savings associations are exempt from .5 mills; therefore, they are taxed at a rate of 1.5 mills. Section 199.185(5), F.S.

exemption of $100,000. If a husband and wife own up to $100,000 intangible personal property, they would have an exemption of $40,000. A husband and wife who own more than $200,000 worth of intangible personal property would be exempt from taxation on the first $200,000. "Non-natural" persons, such as corporations, do not receive these exemptions.

If any individual or entity owes less than $60 in tax, no tax and no return are due. Section 199.052(4), F.S.. An individual would owe taxes if he owns more than $80,000 in intangible personal property. A married couple filing jointly would owe taxes if they own more than $100,000 of intangible personal property. Corporations would owe taxes if they owe more than $30,000 in intangible property.

If the intangible tax is not paid by the due date, the delinquency penalty is 10 percent of the delinquent tax for each calendar month or portion thereof from the due date until paid, up to a limit of 50 percent of the total tax not timely paid. If the tax return required is not filed by the due date, a penalty of 10 percent of the tax due with the return is charged for each year or portion of the year during which the return remains unfiled. Section 199.282, F.S. The combined totals for taxes or returns not filed is limited to 10 percent per calendar month, up to 50 percent of the total tax due. If a tax return is filed and property is either omitted or undervalued, then a specific penalty shall be charged of 10 percent of the tax attributable to each omitted item or to each undervaluation. No delinquency or late filing penalty shall be charged with respect to any undervaluation. Section 199.282, F.S.

According to the Department of Revenue and the Revenue Estimating Conference, the estimated collections for FY 1998-1999 are roughly $976 million. Very rough estimates for FY 1999-2000 by Revenue Estimating hovers between $700 and $750 million. Factoring in a growth rate of 4 percent, estimates for FY 2000-2001 are between $728 and $780 million.

Revenues from the intangible tax are shared between the state and the counties. After administrative expenses, the counties receive 35.7 percent and the state receives 64.3 percent of the revenues. Section 199.292(3), F.S.

C. EFFECT OF PROPOSED CHANGES:

This bill would repeal the intangibles tax on personal property, effective January 1, 2001.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 repeals chapter 199, Florida Statutes.

Sections 2 through 29 amends s. 72.011, F.S., s. 192.091, F.S., s. 196.199, F.S., s. 196.1993, F.S., s. 201.23, F.S., s. 212.02, F.S., s. 213.015, F.S., s. 213.05, F.S., s. 213.053, F.S., s. 213.054, F.S., s. 213.27, F.S., s. 213.31, F.S., s. 215.555, F.S., s. 220.1845, F.S., s. 288.039, F.S., s. 288.1045, F.S., s. 288.106, F.S., s. 288.1066, F.S., s. 376.30781, F.S., s. 440.49, F.S., s. 493.6102, F.S., s.516.031, F.S., s. 627.311, F.S., 627.351, F.S., s. 650.05, F.S., s. 655.071, F.S., s. 733.604, F.S., and s. 766.105, F.S., to conform to the repeal of chapter 199, F.S.

Section 30 repeals subsection (5) of s. 192.032, F.S., subsection (3) of s. 192.042, F.S., subsection (4) of s. 193.114, F.S., subsection (9) of s. 196.015, F.S., paragraph (g) of subsection (1) of s. 607.1622, F.S., and subsection (2) of s. 731.111, F.S.

Section 31 provides an effective date of January 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The fiscal impact of this bill would be negative and would correspond to the actual collection amount of the intangible tax. According to the General Revenue Consensus Estimating Conference Comparison Report from November, 1999, the estimated collections for FY 1998-1999 are roughly $976 million. According to the Report and Department of revenue projection, ballpark figures for FY 1999-2000 range between $700 and $750 million. Factoring in a growth rate of 4 percent, estimates for FY 2000-2001 range between $728 and $780 million.

   Revenues from the intangible tax are shared between the state and the counties. After administrative expenses, the counties receive 35.7 percent and the state receives 64.3 percent of the revenues. Section 199.292(3), F.S. Consequently, if the growth rate remains constant, the General Revenue Fund would lose an estimated income stream ranging between $487 million and $521 million for FY 2001-2002.

2. Expenditures:

   N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   Revenues from the intangible tax are shared between the state and the counties. After administrative expenses, the counties receive 35.7 percent and the state receives 64.3 percent of the revenues. Section 199.292(3), F.S. Consequently, if the growth rate remains constant, local governments would lose an estimated income stream ranging between $270 million and $290 million for FY 2001-2002.

2. Expenditures:

   N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals and business entities would no longer be required to pay an intangible tax in Florida and would be free to place those funds wherever they wished.

D. FISCAL COMMENTS:

Repealing the intangible tax would result in state and local governments losing a shared income stream of almost one billion dollars annually. Consequently, state and local governments may look elsewhere to replace that income stream so that government-sponsored programs which rely on such funds may continue.

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:

The bill will not reduce the authority of counties and municipalities to raise revenues

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

This bill will reduce the total aggregate percentage of a state tax shared with counties and municipalities to below February 1, 1989 levels. Consequently, this bill may only be passed upon approval by two-thirds of the membership of each house of the legislature.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

This bill will reduce the total aggregate percentage of a state tax shared with counties and municipalities to below February 1, 1989 levels. Consequently, this bill may only be passed upon approval by two-thirds of the membership of each house of the legislature.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON FINANCIAL SERVICES:

Prepared by:	Staff Director:
Michael A. Kliner	Susan F. Cutchins