

1                                   A bill to be entitled  
2           An act relating to the tax on intangible  
3           personal property; amending s. 199.032, F.S.;  
4           reducing the rate of such tax; amending s.  
5           199.033, F.S.; reducing the rates of the tax on  
6           securities in a Florida Futures Investment Fund  
7           to conform; amending s. 199.185, F.S.;  
8           exempting accounts receivable from the tax as  
9           of a specified date; deleting an exemption from  
10          the tax to conform; amending s. 199.023, F.S.;  
11          amending the definition of the term "beneficial  
12          interest"; amending s. 199.052, F.S.; relieving  
13          trustees of specified obligations; deleting a  
14          distinction between Florida-situs trusts and  
15          foreign-situs trusts; amending the obligations  
16          of Florida residents who have a beneficial  
17          interest in a trust; imposing obligations on  
18          certain agents other than trustees; exempting  
19          certain banks and savings associations from  
20          specified responsibilities; providing that a  
21          bank's or savings association's management or  
22          control of certain intangible personal property  
23          may not be used as the basis for imposing the  
24          tax; relieving Florida investment advisors of  
25          specified obligations; amending s. 199.175,  
26          F.S.; amending, for purposes of determining  
27          taxable situs, the definition of the term "any  
28          person domiciled in this state"; amending s.  
29          199.183, F.S.; exempting from the tax certain  
30          intangible personal property that is owned,  
31          managed, or controlled by a trustee of a trust;

1           amending s. 218.25, F.S.; providing additional  
2           assurance to holders of bonds secured by shared  
3           funds; providing an effective date.  
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5 Be It Enacted by the Legislature of the State of Florida:  
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7           Section 1. Section 199.032, Florida Statutes, is  
8 amended to read:

9           199.032 Levy of annual tax.--An annual tax of 1 mill  
10 ~~1.5 mills~~ is imposed on each dollar of the just valuation of  
11 all intangible personal property that has a taxable situs in  
12 this state, except for notes and other obligations for the  
13 payment of money, other than bonds, which are secured by  
14 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 2. Section 199.033, Florida Statutes, is  
18 amended to read:

19           199.033 Securities in a Florida's Future Investment  
20 Fund; tax rate.--

21           (1) Notwithstanding the provisions of this chapter,  
22 the tax imposed under s. 199.032 on securities in a Florida's  
23 Future Investment Fund shall apply at the rate of 0.85 mill  
24 ~~1.35 mills~~ when the average daily balance in such funds  
25 exceeds \$2 billion and at the rate of 0.70 mill ~~1.20 mills~~  
26 when the average daily balance in such funds exceeds \$5  
27 billion.

28           (2) This section shall not apply in any year in which  
29 the revenues of the foundation in the previous calendar year  
30 are less than the tax savings allowed by this section. "Tax  
31 savings" means the difference between the tax that would be

1 imposed pursuant to s. 199.032 and the tax rate specified in  
2 subsection (1).

3 Section 3. Paragraph (1) of subsection (1) and  
4 subsection (2) of section 199.185, Florida Statutes, are  
5 amended to read:

6 199.185 Property exempted from annual and nonrecurring  
7 taxes.--

8 (1) The following intangible personal property shall  
9 be exempt from the annual and nonrecurring taxes imposed by  
10 this chapter:

11 (1) ~~Two-thirds of~~ The accounts receivable arising or  
12 acquired in the ordinary course of a trade or business which  
13 are owned, controlled, or managed by a taxpayer on January 1,  
14 2001 ~~2000~~, and thereafter. ~~It is the intent of the Legislature~~  
15 ~~that, pursuant to future legislative action, the portion of~~  
16 ~~such accounts receivable exempt from taxation be increased to~~  
17 ~~all such accounts receivable on January 1, 2001, and~~  
18 ~~thereafter.~~ This exemption does not apply to accounts  
19 receivable that arise outside the taxpayer's ordinary course  
20 of trade or business. For the purposes of this chapter, the  
21 term "accounts receivable" means a business debt that is owed  
22 by another to the taxpayer or the taxpayer's assignee in the  
23 ordinary course of trade or business and is not supported by  
24 negotiable instruments. Accounts receivable include, but are  
25 not limited to, credit card receivables, charge card  
26 receivables, credit receivables, margin receivables, inventory  
27 or other floor plan financing, lease payments past due,  
28 conditional sales contracts, retail installment sales  
29 agreements, financing lease contracts, and a claim against a  
30 debtor usually arising from sales or services rendered and  
31 which is not necessarily due or past due. The examples

1 specified in this paragraph shall be deemed not to be  
2 supported by negotiable instruments. The term "negotiable  
3 instrument" means a written document that is legally capable  
4 of being transferred by indorsement or delivery. The term  
5 "indorsement" means the act of a payee or holder in writing  
6 his or her name on the back of an instrument without further  
7 qualifying words other than "pay to the order of" or "pay to"  
8 whereby the property is assigned and transferred to another.

9           (2)(a) ~~With respect to the first mill of the annual~~  
10 ~~tax,~~ Every natural person is entitled each year to an  
11 exemption of the first \$20,000 of the value of property  
12 otherwise subject to said tax. A husband and wife filing  
13 jointly shall have an exemption of \$40,000.

14           (b) ~~With respect to the last 0.5 mill of the annual~~  
15 ~~tax, every natural person is entitled each year to an~~  
16 ~~exemption of the first \$100,000 of the value of property~~  
17 ~~otherwise subject to said tax. A husband and wife filing~~  
18 ~~jointly shall have an exemption of \$200,000.~~ Agents and  
19 fiduciaries, other than guardians and custodians under a  
20 gifts-to-minors act, filing as such may not claim this  
21 exemption on behalf of their principals or beneficiaries;  
22 however, if the principal or beneficiary returns the property  
23 held by the agent or fiduciary and is a natural person, the  
24 principal or beneficiary may claim the exemption. No taxpayer  
25 shall be entitled to more than one exemption under this  
26 subsection ~~paragraph (a) and one exemption under paragraph~~  
27 ~~(b)~~. This exemption shall not apply to that intangible  
28 personal property described in s. 199.023(1)(d).

29           Section 4. Subsection (7) of section 199.023, Florida  
30 Statutes, is amended to read:

31           199.023 Definitions.--As used in this chapter:

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

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

8 199.052 Annual tax returns; payment of annual tax.--

9 (5) The trustee of a ~~Florida-situs~~ trust is not  
10 ~~primarily~~ responsible for returning the trust's intangible  
11 personal property and is not required to pay any ~~paying the~~  
12 annual tax on it,--

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

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

15 2. ~~There are three or more trustees sharing equally in  
16 the ownership, management, or control of the trust's  
17 intangible property, and the majority of the trustees are  
18 residents of this state; or~~

19 3. ~~Trustees consist of both residents and nonresidents  
20 and management or control of the trust is with a resident  
21 trustee.~~

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

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

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

3           ~~(e) The trust's beneficiaries, however, may~~  
4 ~~individually return their equitable shares of the trust's~~  
5 ~~intangible personal property and pay the tax on such shares,~~  
6 ~~in which case the trustee need not return such property or pay~~  
7 ~~such tax, although the department may require the trustee to~~  
8 ~~file an informational return.~~

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

18           (9) Where an agent other than a trustee has control or  
19 management of intangible personal property, the principal is  
20 primarily responsible for returning such property and paying  
21 the annual tax on it, but the agent shall return such property  
22 on behalf of the principal and pay the annual tax on it if the  
23 principal fails to do so. The department may in any case  
24 require the agent to file an informational return.

25           (15) If a bank or savings association, as defined in  
26 s. 220.62, acts as a fiduciary or agent of a trust other than  
27 as a trustee, the bank or savings association is not  
28 responsible for returning the trust's intangible personal  
29 property and is not required to pay any annual tax on it, and  
30 ~~intangible personal property of the trust shall not have~~  
31 ~~taxable situs in this state pursuant to s. 199.175 solely by~~

1 ~~virtue of~~ the management or control of the bank or savings  
2 association may not be used as the basis for imposing any  
3 annual tax on any person or any assets of the trust. If a  
4 person acts as a fiduciary or agent for purposes of managing  
5 intangible assets owned by another person, such intangible  
6 assets shall not have a taxable situs in this state pursuant  
7 to s. 199.175 solely by virtue of the management or control of  
8 such assets by the person who is not the owner of the assets.

9 Section 6. Paragraph (a) of subsection (1) of section  
10 199.175, Florida Statutes, is amended to read:

11 199.175 Taxable situs.--For purposes of the annual tax  
12 imposed under this chapter:

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

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

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

3           2. Any business, business trust as described in  
4 chapter 609, company, corporation, partnership, or other  
5 artificial entity organized or created under the law of this  
6 state, except a trust; or

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

9           Section 7. Subsection (4) is added to section 199.183,  
10 Florida Statutes, to read:

11           199.183 Taxpayers exempt from annual and nonrecurring  
12 taxes.--

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

18           Section 8. Subsection (3) is added to section 218.25,  
19 Florida Statutes, to read:

20           218.25 Limitation of shared funds; holders of bonds  
21 protected; limitation on use of second guaranteed entitlement  
22 for counties.--

23           (3) As an additional assurance to holders of bonds  
24 issued before March 8, 2000, which are secured by the  
25 guaranteed entitlement or second guaranteed entitlement for  
26 counties, or bonds issued to refund such bonds which mature no  
27 later than the bonds that they refunded and which result in a  
28 reduction of debt service payable in each fiscal year, it is  
29 the intent of the Legislature that, to the extent the  
30 elimination of tax sources dedicated to funding the guaranteed  
31 entitlement or the second guaranteed entitlement for counties



1 or a reduction in the rate of assessment of such taxes results  
2 in an inability of a county to pay debt service on such bonds,  
3 the Legislature will provide alternative funding sources in an  
4 amount sufficient to pay any deficit in the amount required  
5 for such debt service. This commitment of the Legislature is  
6 contingent on the county first using any funds available under  
7 this part for the payment of such debt service.

8           Section 9. This act shall take effect July 1, 2000,  
9 and apply to tax years beginning after December 31, 2000.

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