

589-161AX-05

Bill No. CS/HBs 67 & 187

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

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Representative(s) Wiles and Suarez offered the following:

Amendment (with title amendment)

Remove from the bill: everything after the enacting clause
and insert in lieu thereof:

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

199.023 Definitions.--As used in this chapter:

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

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

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

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

(5) The trustee of a ~~Florida-situs~~ trust is not ~~primarily~~ responsible for returning the trust's intangible

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1 personal property and is not required to pay any ~~paying the~~
2 annual tax on it.

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

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

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

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

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

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

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

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

30 (6) Each Florida resident with a beneficial interest,
31 as defined in s. 199.023(7), in a ~~foreign-situs~~ trust, that

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

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

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

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

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

3 199.175 Taxable situs.--For purposes of the annual tax
4 imposed under this chapter:

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

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

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

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

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

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

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

5 199.183 Taxpayers exempt from annual and nonrecurring
6 taxes.--

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

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

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

17 199.185 Property exempted from annual and nonrecurring
18 taxes.--

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

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

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

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

26 ~~(b) With respect to the last 0.5 mill of the annual~~
 27 ~~tax, every natural person is entitled each year to an~~
 28 ~~exemption of the first \$100,000 of the value of property~~
 29 ~~otherwise subject to said tax. A husband and wife filing~~
 30 ~~jointly shall have an exemption of \$200,000.~~

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

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

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

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

20 199.292 Disposition of intangible personal property
 21 taxes.--All intangible personal property taxes collected
 22 pursuant to this chapter shall be placed in a special fund
 23 designated as the "Intangible Tax Trust Fund." The fund shall
 24 be disbursed as follows:

25 (3) Of the remaining intangible personal property
 26 taxes collected, the balance an amount equal to 35.3 percent
 27 in state fiscal year 1998-1999 and an amount equal to 37.7
 28 percent in each year thereafter, shall be transferred to the
 29 Revenue Sharing Trust Fund for Counties. Of the remaining
 30 taxes collected, an amount equal to 64.7 percent in state
 31 fiscal year 1998-1999 and an amount equal to 62.3 percent in

1 ~~each year thereafter,~~ shall be transferred to the General
2 Revenue Fund of the state.

3 Section 8. Paragraph (f) of subsection (6) of section
4 212.20, Florida Statutes, is amended to read:

5 212.20 Funds collected, disposition; additional powers
6 of department; operational expense; refund of taxes
7 adjudicated unconstitutionally collected.--

8 (6) Distribution of all proceeds under this chapter
9 shall be as follows:

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

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

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

20 3. After the distribution under subparagraphs 1. and
21 2., 9.653 percent of the amount remitted by a sales tax dealer
22 located within a participating county pursuant to s. 218.61
23 shall be transferred into the Local Government Half-cent Sales
24 Tax Clearing Trust Fund.

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

29 5. For proceeds received after July 1, 2000, and after
30 the distributions under subparagraphs 1., 2., 3., and 4., 2.25
31 percent of the available proceeds pursuant to this paragraph

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1 shall be transferred monthly to the Revenue Sharing Trust Fund
2 for Counties pursuant to s. 218.215.

3 ~~6.5.~~ Of the remaining proceeds:

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

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

27 c. Beginning 30 days after notice by the Department of
28 Commerce to the Department of Revenue that the applicant has
29 been certified as the International Game Fish Association
30 World Center facility pursuant to s. 288.1169, and the
31 facility is open to the public, \$83,333 shall be distributed

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1 monthly, for up to 180 months, to the applicant. This
2 distribution is subject to reduction pursuant to s. 288.1169.

3 ~~7.6.~~ All other proceeds shall remain with the General
4 Revenue Fund.

5 Section 9. Section 218.23, Florida Statutes, is
6 amended to read:

7 218.23 Revenue sharing with units of local
8 government.--

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

12 (a) Reported its finances for its most recently
13 completed fiscal year to the Department of Banking and
14 Finance, pursuant to s. 218.32.

15 (b) Made provisions for annual postaudits of its
16 financial accounts in accordance with provisions of law.

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

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1 paragraph requires only a minimum amount of revenue to be
2 raised from the ad valorem tax, the occupational license tax,
3 and the utility tax. It does not require a minimum millage
4 rate.

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

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

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

26
27 Additionally, to receive its share of revenue sharing funds, a
28 unit of local government shall certify to the Department of
29 Revenue that the requirements of s. 200.065, if applicable,
30 were met. The certification shall be made annually within 30
31 days of adoption of an ordinance or resolution establishing a

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1 final property tax levy or, if no property tax is levied, not
2 later than November 1. The portion of revenue sharing funds
3 which, pursuant to this part, would otherwise be distributed
4 to a unit of local government which has not certified
5 compliance or has otherwise failed to meet the requirements of
6 s. 200.065 shall be deposited in the General Revenue Fund for
7 the 12 months following a determination of noncompliance by
8 the department.

9 (2) Any unit of local government which is consolidated
10 as provided by s. 9, Art. VIII of the State Constitution of
11 1885, as preserved by s. 6(e), Art. VIII of the 1968 revised
12 constitution, shall receive an annual distribution from the
13 Revenue Sharing Trust Fund for Counties equal to \$6.24 times
14 its population.

15 ~~(3)~~(2) The distribution to a unit of local government
16 under this part is determined by the following formula:

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

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

27 (c) Third, revenues shared with counties for any
28 fiscal year shall be adjusted so that no county receives less
29 funds than its guaranteed entitlement plus the second
30 guaranteed entitlement for counties.

31 (d) Fourth, revenue shared with units of local

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1 government for any fiscal year shall be adjusted so that no
2 unit of local government receives less funds than its minimum
3 entitlement.

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

13 ~~(4)(3)~~ Notwithstanding the provisions of paragraph
14 (1)(c), no unit of local government which was eligible to
15 participate in revenue sharing in the 3 years prior to
16 initially participating in the local government half-cent
17 sales tax shall be ineligible to participate in revenue
18 sharing solely due to a millage or utility tax reduction
19 afforded by the local government half-cent sales tax.

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

22 288.1169 International Game Fish Association World
23 Center facility; department duties.--

24 (6) The Department of Commerce must recertify every 10
25 years that the facility is open, that the International Game
26 Fish Association World Center continues to be the only
27 international administrative headquarters, fishing museum, and
28 Hall of Fame in the United States recognized by the
29 International Game Fish Association, and that the project is
30 meeting the minimum projections for attendance or sales tax
31 revenues as required at the time of original certification.

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

12 Section 11. This act shall take effect July 1, 2000.

15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 Remove from the title of the bill: the entire title

18 and insert in lieu thereof:

20 A bill to be entitled

21 An act relating to taxation; amending s.
 22 199.023, F.S.; revising the definition of a
 23 "beneficial interest" in a trust for intangible
 24 personal property tax purposes; amending s.
 25 199.052, F.S.; providing that a trustee is not
 26 responsible for returns and is not required to
 27 pay annual tax on trust property; providing
 28 that a Florida resident with a beneficial
 29 interest in a trust is responsible for returns
 30 and payment of tax for his or her equitable
 31 share; revising provisions relating to the

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1 responsibilities of a bank or savings
2 association acting as agent of a trust other
3 than as a trustee and providing that its
4 management or control shall not be used as a
5 basis for imposing the annual tax; providing
6 that intangible assets managed by a fiduciary
7 or agent shall not have taxable situs in this
8 state solely by virtue of such management;
9 amending s. 199.175, F.S.; revising the
10 definition of "any person domiciled in this
11 state"; amending s. 199.183, F.S.; providing
12 that intangible personal property owned,
13 managed, or controlled by a trustee of a trust
14 is exempt from the annual tax; amending s.
15 199.185, F.S.; providing that all accounts
16 receivable are exempt from intangible personal
17 property taxes; revising application of the
18 exemption from the annual tax granted to
19 natural persons and increasing the exemption;
20 providing intent; amending s. 199.292, F.S.;
21 eliminating distribution of a portion of
22 intangible personal property tax revenues to
23 the Revenue Sharing Trust Fund for Counties;
24 amending s. 212.20, F.S.; providing for
25 distribution of a portion of sales and use tax
26 proceeds to the trust fund; amending s. 218.23,
27 F.S.; providing for an annual distribution from
28 the trust fund to certain consolidated units of
29 local government; amending s. 288.1169, F.S.;
30 correcting a reference; providing an effective
31 date.