

By the Committee on Finance & Taxation and Representatives
Fasano, Starks, Russell, Goodlette, Lynn, Fiorentino, Murman,
Brummer, Wallace, J. Miller, Ritchie, Johnson, Dockery,
Constantine, Argenio and Argenziano

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.
6 199.032, F.S.; reducing the rate of the annual
7 intangible personal property tax; amending s.
8 199.033, F.S.; reducing the rates of the tax on
9 securities in a Florida's Future Investment
10 Fund to conform; amending s. 199.052, F.S.;
11 providing that a trustee is not responsible for
12 returns and is not required to pay annual tax
13 on trust property; providing that a Florida
14 resident with a beneficial interest in a trust
15 is responsible for returns and payment of tax
16 for his or her equitable share; revising
17 provisions relating to the responsibilities of
18 a bank or savings association acting as agent
19 of a trust other than as a trustee and
20 providing that its management or control shall
21 not be used as a basis for imposing the annual
22 tax; providing that intangible assets managed
23 by a fiduciary or agent shall not have taxable
24 situs in this state solely by virtue of such
25 management; amending s. 199.175, F.S.; revising
26 the definition of "any person domiciled in this
27 state"; amending s. 199.183, F.S.; providing
28 that intangible personal property owned,
29 managed, or controlled by a trustee of a trust
30 is exempt from the annual tax; amending s.
31 199.185, F.S.; providing that all accounts

1 receivable are exempt from intangible personal
2 property taxes; revising the exemption from the
3 annual tax granted to natural persons; amending
4 s. 199.292, F.S.; eliminating distribution of a
5 portion of intangible personal property tax
6 revenues to the Revenue Sharing Trust Fund for
7 Counties; amending s. 212.20, F.S.; increasing
8 the distribution of sales and use tax proceeds
9 to the Local Government Half-cent Sales Tax
10 Clearing Trust Fund; providing for distribution
11 of a portion of sales and use tax proceeds to
12 the Revenue Sharing Trust Fund for Counties;
13 amending s. 218.23, F.S.; providing for an
14 annual distribution from the trust fund to
15 certain consolidated units of local government;
16 amending s. 218.25, F.S.; providing additional
17 assurance to holders of bonds secured by shared
18 funds; amending s. 288.1169, F.S.; correcting a
19 reference; repealing s. 218.251, F.S.; which
20 provides for an additional distribution to
21 certain consolidated governments, subject to
22 annual appropriations; providing an effective
23 date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. (1) Subsection (7) of section 199.023,
28 Florida Statutes, is amended to read:

29 199.023 Definitions.--As used in this chapter:

30 (7) A resident has a "beneficial interest" in a
31 ~~foreign~~ trust if the resident has a vested interest, even if

1 subject to divestment, which includes at least a current right
2 to income and either a power to revoke the trust or a general
3 power of appointment, as defined in 26 U.S.C. s. 2041(b)(1).

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

6 Section 2. (1) Section 199.032, Florida Statutes, is
7 amended to read:

8 199.032 Levy of annual tax.--An annual tax of 1 mill
9 ~~1.5 mills~~ is imposed on each dollar of the just valuation of
10 all intangible personal property that has a taxable situs in
11 this state, except for notes and other obligations for the
12 payment of money, other than bonds, which are secured by
13 mortgage, deed of trust, or other lien upon real property
14 situated in the state. This tax shall be assessed and
15 collected as provided in this chapter.

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

18 Section 3. (1) Subsection (1) of section 199.033,
19 Florida Statutes, is amended to read:

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

22 (1) Notwithstanding the provisions of this chapter,
23 the tax imposed under s. 199.032 on securities in a Florida's
24 Future Investment Fund shall apply at the rate of .85 mill
25 ~~1.35 mills~~ when the average daily balance in such funds
26 exceeds \$2 billion and at the rate of .70 mill ~~1.20 mills~~ when
27 the average daily balance in such funds exceeds \$5 billion.

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

30 Section 4. (1) Subsections (5), (6), (9), and (15) of
31 section 199.052, Florida Statutes, are amended to read:

1 199.052 Annual tax returns; payment of annual tax.--
2 (5) The trustee of a ~~Florida situs~~ trust is not
3 ~~primarily~~ responsible for returning the trust's intangible
4 personal property and is not required to pay any ~~paying the~~
5 annual tax on it, ~~;~~
6 ~~(a) A trust has a Florida situs when:~~
7 ~~1. All trustees are residents of the state;~~
8 ~~2. There are three or more trustees sharing equally in~~
9 ~~the ownership, management, or control of the trust's~~
10 ~~intangible property, and the majority of the trustees are~~
11 ~~residents of this state; or~~
12 ~~3. Trustees consist of both residents and nonresidents~~
13 ~~and management or control of the trust is with a resident~~
14 ~~trustee.~~
15 ~~(b) When trustees consist of both residents and~~
16 ~~nonresidents and management or control is with a nonresident~~
17 ~~trustee, the trust does not have Florida situs and no return~~
18 ~~is necessary by any resident trustee.~~
19 ~~(c) A portion of the trust has Florida situs when~~
20 ~~there are two trustees, one a resident of this state and one a~~
21 ~~nonresident, and they share equally in the ownership,~~
22 ~~management, or control of the trust's intangible property. The~~
23 ~~tax on such property shall be based on the value apportioned~~
24 ~~between them.~~
25 ~~(d) If there is more than one trustee in the state,~~
26 ~~only one tax return for the trust must be filed.~~
27 ~~(e) The trust's beneficiaries, however, may~~
28 ~~individually return their equitable shares of the trust's~~
29 ~~intangible personal property and pay the tax on such shares,~~
30 ~~in which case the trustee need not return such property or pay~~
31

1 ~~such tax~~, although the department may require the trustee to
2 file an informational return.

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

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

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

1 to s. 199.175 solely by virtue of the management or control of
2 such assets by the person who is not the owner of the assets.

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

5 Section 5. (1) Paragraph (a) of subsection (1) of
6 section 199.175, Florida Statutes, is amended to read:

7 199.175 Taxable situs.--For purposes of the annual tax
8 imposed under this chapter:

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

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

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

29 2. Any bank or financial institution, business,
30 business trust as described in chapter 609, company,
31 corporation, insurance company, partnership, or other

1 artificial entity organized or created under the law of this
2 state, except a trust; or

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

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

7 Section 6. (1) Subsection (4) is added to section
8 199.183, Florida Statutes, to read:

9 199.183 Taxpayers exempt from annual and nonrecurring
10 taxes.--

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

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

18 Section 7. (1) Paragraph (1) of subsection (1) and
19 subsection (2) of section 199.185, Florida Statutes, are
20 amended to read:

21 199.185 Property exempted from annual and nonrecurring
22 taxes.--

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

26 (1) All ~~Two-thirds of the~~ accounts receivable arising
27 or acquired in the ordinary course of a trade or business
28 which are owned, controlled, or managed by a taxpayer ~~on~~
29 ~~January 1, 2000, and thereafter. It is the intent of the~~
30 ~~legislature that, pursuant to future legislative action, the~~
31 ~~portion of such accounts receivable exempt from taxation be~~

1 ~~increased to all such accounts receivable on January 1, 2001,~~
2 ~~and thereafter.~~ This exemption does not apply to accounts
3 receivable that arise outside the taxpayer's ordinary course
4 of trade or business. For the purposes of this chapter, the
5 term "accounts receivable" means a business debt that is owed
6 by another to the taxpayer or the taxpayer's assignee in the
7 ordinary course of trade or business and is not supported by
8 negotiable instruments. Accounts receivable include, but are
9 not limited to, credit card receivables, charge card
10 receivables, credit receivables, margin receivables, inventory
11 or other floor plan financing, lease payments past due,
12 conditional sales contracts, retail installment sales
13 agreements, financing lease contracts, and a claim against a
14 debtor usually arising from sales or services rendered and
15 which is not necessarily due or past due. The examples
16 specified in this paragraph shall be deemed not to be
17 supported by negotiable instruments. The term "negotiable
18 instrument" means a written document that is legally capable
19 of being transferred by indorsement or delivery. The term
20 "indorsement" means the act of a payee or holder in writing
21 his or her name on the back of an instrument without further
22 qualifying words other than "pay to the order of" or "pay to"
23 whereby the property is assigned and transferred to another.

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

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

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 8. Subsection (3) of section 199.292, Florida
17 Statutes, is amended to read:

18 199.292 Disposition of intangible personal property
19 taxes.--All intangible personal property taxes collected
20 pursuant to this chapter shall be placed in a special fund
21 designated as the "Intangible Tax Trust Fund." The fund shall
22 be disbursed as follows:

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

1 Section 9. Paragraph (f) of subsection (6) of section
2 212.20, Florida Statutes, is amended to read:

3 212.20 Funds collected, disposition; additional powers
4 of department; operational expense; refund of taxes
5 adjudicated unconstitutionally collected.--

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

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

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

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

18 3. After the distribution under subparagraphs 1. and
19 2., 9.653 percent of the amount remitted by a sales tax dealer
20 located within a participating county pursuant to s. 218.61
21 shall be transferred into the Local Government Half-cent Sales
22 Tax Clearing Trust Fund.

23 4. After the distribution under subparagraphs 1., 2.,
24 and 3., 0.065 ~~0.054~~ percent shall be transferred to the Local
25 Government Half-cent Sales Tax Clearing Trust Fund and
26 distributed pursuant to s. 218.65.

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

1 ~~6.5.~~ Of the remaining proceeds:
2 a. Beginning July 1, 1992, \$166,667 shall be
3 distributed monthly by the department to each applicant that
4 has been certified as a "facility for a new professional
5 sports franchise" or a "facility for a retained professional
6 sports franchise" pursuant to s. 288.1162 and \$41,667 shall be
7 distributed monthly by the department to each applicant that
8 has been certified as a "new spring training franchise
9 facility" pursuant to s. 288.1162. Distributions shall begin
10 60 days following such certification and shall continue for 30
11 years. Nothing contained herein shall be construed to allow an
12 applicant certified pursuant to s. 288.1162 to receive more in
13 distributions than actually expended by the applicant for the
14 public purposes provided for in s. 288.1162(7). However, a
15 certified applicant shall receive distributions up to the
16 maximum amount allowable and undistributed under this section
17 for additional renovations and improvements to the facility
18 for the franchise without additional certification.
19 b. Beginning 30 days after notice by the Office of
20 Tourism, Trade, and Economic Development to the Department of
21 Revenue that an applicant has been certified as the
22 professional golf hall of fame pursuant to s. 288.1168 and is
23 open to the public, \$166,667 shall be distributed monthly, for
24 up to 300 months, to the applicant.
25 c. Beginning 30 days after notice by the Department of
26 Commerce to the Department of Revenue that the applicant has
27 been certified as the International Game Fish Association
28 World Center facility pursuant to s. 288.1169, and the
29 facility is open to the public, \$83,333 shall be distributed
30 monthly, for up to 180 months, to the applicant. This
31 distribution is subject to reduction pursuant to s. 288.1169.

1 ~~7.6.~~ All other proceeds shall remain with the General
2 Revenue Fund.

3 Section 10. Section 218.23, Florida Statutes, is
4 amended to read:

5 218.23 Revenue sharing with units of local
6 government.--

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

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

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

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

1 and the utility tax. It does not require a minimum millage
2 rate.

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

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

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

24
25 Additionally, to receive its share of revenue sharing funds, a
26 unit of local government shall certify to the Department of
27 Revenue that the requirements of s. 200.065, if applicable,
28 were met. The certification shall be made annually within 30
29 days of adoption of an ordinance or resolution establishing a
30 final property tax levy or, if no property tax is levied, not
31 later than November 1. The portion of revenue sharing funds

1 which, pursuant to this part, would otherwise be distributed
2 to a unit of local government which has not certified
3 compliance or has otherwise failed to meet the requirements of
4 s. 200.065 shall be deposited in the General Revenue Fund for
5 the 12 months following a determination of noncompliance by
6 the department.

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

13 ~~(3)(2)~~ The distribution to a unit of local government
14 under this part is determined by the following formula:

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

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

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

29 (d) Fourth, revenue shared with units of local
30 government for any fiscal year shall be adjusted so that no
31

1 unit of local government receives less funds than its minimum
2 entitlement.

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

12 ~~(4)(3)~~ Notwithstanding the provisions of paragraph
13 (1)(c), no unit of local government which was eligible to
14 participate in revenue sharing in the 3 years prior to
15 initially participating in the local government half-cent
16 sales tax shall be ineligible to participate in revenue
17 sharing solely due to a millage or utility tax reduction
18 afforded by the local government half-cent sales tax.

19 Section 11. Subsection (3) is added to section 218.25,
20 Florida Statutes, to read:

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

24 (3) As an additional assurance to holders of bonds
25 issued before April 18, 2000, which are secured by the
26 guaranteed entitlement or second guaranteed entitlement for
27 counties, or bonds issued to refund such bonds which mature no
28 later than the bonds that they refunded and which result in a
29 reduction of debt service payable in each fiscal year, it is
30 the intent of the Legislature that, to the extent the
31 elimination of tax sources dedicated to funding the guaranteed

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

9 Section 12. Subsection (6) of section 288.1169,
10 Florida Statutes, is amended to read:

11 288.1169 International Game Fish Association World
12 Center facility; department duties.--

13 (6) The Department of Commerce must recertify every 10
14 years that the facility is open, that the International Game
15 Fish Association World Center continues to be the only
16 international administrative headquarters, fishing museum, and
17 Hall of Fame in the United States recognized by the
18 International Game Fish Association, and that the project is
19 meeting the minimum projections for attendance or sales tax
20 revenues as required at the time of original certification.
21 If the facility is not recertified during this 10-year review
22 as meeting the minimum projections, then funding will be
23 abated until certification criteria are met. If the project
24 fails to generate \$1 million of annual revenues pursuant to
25 paragraph (2)(e), the distribution of revenues pursuant to s.
26 212.20(6)(f)~~6.5-c.~~ shall be reduced to an amount equal to
27 \$83,333 multiplied by a fraction, the numerator of which is
28 the actual revenues generated and the denominator of which is
29 \$1 million. Such reduction shall remain in effect until
30 revenues generated by the project in a 12-month period equal
31 or exceed \$1 million.

1 Section 13. Section 218.251, Florida Statutes, is
2 repealed.
3 Section 14. This act shall take effect July 1, 2000.
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