

By Senator Campbell

33-118A-02

1                                   A bill to be entitled  
2           An act relating to taxation; amending s.  
3           72.011, F.S.; providing for the venue and  
4           jurisdiction of taxpayer actions in circuit  
5           court; amending s. 212.12, F.S.; providing for  
6           methods of determining overpayments by persons  
7           paying the tax on sales, use, and other  
8           transactions; amending s. 213.21, F.S.;  
9           revising the process for review of a taxpayer's  
10          liability for tax and interest; amending s.  
11          220.03, F.S.; providing for the tax  
12          classification of specified entities; amending  
13          s. 608.471, F.S.; providing for the tax  
14          treatment of certain types of limited liability  
15          companies; providing an effective date.

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17 Be It Enacted by the Legislature of the State of Florida:

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19           Section 1. Paragraph (a) of subsection (4) and  
20 subsection (5) of section 72.011, Florida Statutes, are  
21 amended to read:

22           72.011 Jurisdiction of circuit courts in specific tax  
23 matters; administrative hearings and appeals; time for  
24 commencing action; parties; deposits.--

25           (4)(a) Except as provided in paragraph (b), an action  
26 initiated in circuit court pursuant to subsection (1) shall be  
27 filed in the Second Judicial Circuit Court in and for Leon  
28 County or in the circuit court in the county where the  
29 taxpayer resides, ~~or~~ maintains its principal commercial  
30 domicile in this state, or regularly maintains its books and  
31 records in this state.

1           (5) The requirements of subsections (1), (2), and (3)  
2 ~~this section~~ are jurisdictional.

3           Section 2. Paragraph (d) is added to subsection (6) of  
4 section 212.12, Florida Statutes, to read:

5           212.12 Dealer's credit for collecting tax; penalties  
6 for noncompliance; powers of Department of Revenue in dealing  
7 with delinquents; brackets applicable to taxable transactions;  
8 records required.--

9           (6)

10           (d) A taxpayer is entitled, both in connection with an  
11 audit and in connection with an application for refund filed  
12 independently of any audit, to establish the amount of an  
13 overpayment through statistical sampling when the taxpayer's  
14 records, other than those regarding fixed assets, are adequate  
15 but voluminous. Alternatively, a taxpayer is entitled to  
16 establish an overpayment through any other sampling method  
17 agreed upon by the taxpayer and the department when the  
18 taxpayer's records, other than those regarding fixed assets,  
19 are adequate but voluminous.

20           Section 3. Paragraph (a) of subsection (3) of section  
21 213.21, Florida Statutes, is amended to read:

22           213.21 Informal conferences; compromises.--

23           (3)(a) A taxpayer's liability for any tax or interest  
24 specified in s. 72.011(1) may be compromised by the department  
25 upon the grounds of doubt as to liability for or  
26 collectibility of such tax or interest. A taxpayer's liability  
27 for penalties under any of the chapters specified in s.  
28 72.011(1) may be settled or compromised if it is determined by  
29 the department that the noncompliance is due to reasonable  
30 cause and not to willful negligence, willful neglect, or  
31 fraud. The facts and circumstances are subject to de novo

1 review to determine the existence of reasonable cause in any  
2 administrative proceeding or judicial action challenging an  
3 assessment of penalty under any of the chapters specified in  
4 s. 72.011(1).A taxpayer who establishes reasonable reliance  
5 on the written advice issued by the department to the taxpayer  
6 will be deemed to have shown reasonable cause for the  
7 noncompliance. In addition, a taxpayer's liability for  
8 penalties under any of the chapters specified in s. 72.011(1)  
9 in excess of 25 percent of the tax shall be settled or  
10 compromised if the department determines that the  
11 noncompliance is due to reasonable cause and not to willful  
12 negligence, willful neglect, or fraud. The department shall  
13 maintain records of all compromises, and the records shall  
14 state the basis for the compromise. The records of compromise  
15 under this paragraph shall not be subject to disclosure  
16 pursuant to s. 119.07(1) and shall be considered confidential  
17 information governed by the provisions of s. 213.053.

18 Section 4. Subsection (2) of section 220.03, Florida  
19 Statutes, is amended to read:

20 220.03 Definitions.--

21 (2) DEFINITIONAL RULES.--When used in this code and  
22 neither otherwise distinctly expressed nor manifestly  
23 incompatible with the intent thereof:

24 (a) The word "corporation" or "taxpayer" shall be  
25 deemed to include the words "and its successors and assigns"  
26 as if these words, or words of similar import, were  
27 expressed.†

28 (b) Any term used in any section of this code with  
29 respect to the application of, or in connection with, the  
30 provisions of any other section of this code shall have the  
31 same meaning as in such other section.†~~and~~

1           (c) Any term used in this code shall have the same  
2 meaning as when used in a comparable context in the Internal  
3 Revenue Code and other statutes of the United States relating  
4 to federal income taxes, as such code and statutes are in  
5 effect on January 1, 2001. However, if subsection (3) is  
6 implemented, the meaning of any term shall be taken at the  
7 time the term is applied under this code.

8           (d) Notwithstanding any other provision of this  
9 chapter, the tax classification of an entity, including a  
10 single-member entity, as determined under sections 7701 and  
11 7704 of the Internal Revenue Code and the Treasury Regulations  
12 promulgated thereunder, is determinative of the entity's  
13 classification under this chapter.

14           Section 5. Subsection (3) is added to section 608.471,  
15 Florida Statutes, to read:

16           608.471 Tax exemption on income of certain limited  
17 liability companies.--

18           (3) Single-member limited liability companies and  
19 other entities that are disregarded for federal income tax  
20 purposes must be treated as separate legal entities for all  
21 non-income-tax purposes. The Department of Revenue shall adopt  
22 rules to take into account that single-member disregarded  
23 entities such as limited liability companies and qualified  
24 subchapter S corporations may be disregarded as separate  
25 entities for federal tax purposes and therefore may report and  
26 account for income, employment, and other taxes under the  
27 taxpayer identification number of the owner of the  
28 single-member entity.

29           Section 6. This act shall take effect July 1, 2002.  
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SENATE SUMMARY

Provides for jurisdiction and venue of certain taxpayer actions in circuit court. Provides methods for the determination of overpayments by persons paying the tax on sales, use, and other transactions. Revises the process for review of a taxpayer's liability under the revenue laws. Provides for the classification of certain entities under the corporation income tax law. Provides for the treatment of single-member limited liability companies.