

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 963 CS
SPONSOR(S): Brummer
TIED BILLS:

Annual Intangible Personal Property Tax

IDEN./SIM. BILLS: HB 383, HB 661, SB 880, SB 2348

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|----------------------------|----------------|---------|----------------|
| 1) Finance & Tax Committee | 7 Y, 2 N, w/CS | Levin | Diez-Arguelles |
| 2) Fiscal Council | 17 Y, 5 N | Levin | Kelly |
| 3) _____ | _____ | _____ | _____ |
| 4) _____ | _____ | _____ | _____ |
| 5) _____ | _____ | _____ | _____ |

SUMMARY ANALYSIS

Chapter 199, F.S., imposes two different intangible personal property taxes: an annual (or recurring) tax is imposed at the rate of 1 mill on the value of stocks, bonds, notes, and other intangible personal property; as well as a non-recurring tax on obligations secured by liens on Florida realty at the rate of 2 mills. Individuals and businesses are currently obligated to pay an annual (recurring) tax on stocks, bonds, notes, governmental leaseholds, and interests in limited partnerships registered with the Securities and Exchange Commission (SEC). Current law exempts from the annual (recurring) tax \$250,000 for each natural person and \$500,000 for each natural person and spouse filing a joint return. The law also provides a \$250,000 exemption for corporations and other legal entities.

This bill repeals the 1 mill annual (recurring) tax imposed on stocks, bonds, notes, and other intangible property. No change is made to the 2 mills non-recurring tax imposed upon obligations secured by liens on Florida property.

The fiscal impact of the bill is a negative \$235 million in state revenues and a negative \$1.2 million in local revenues in FY 2005-2006, and a negative \$299.5 million in state revenues and a negative \$1.2 million in local revenues in FY 2006-2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes: After December 31, 2005, Florida taxpayers will no longer be required to pay the annual portion of the intangibles tax.

B. EFFECT OF PROPOSED CHANGES:

Current taxes:

Chapter 199, F.S., currently imposes two different intangible personal property taxes: an annual (or recurring) tax is imposed at the rate of 1 mill on the value of stocks, bonds, notes, and other intangible personal property; as well as a non-recurring tax on obligations secured by liens on Florida realty at the rate of 2 mills. Individuals and businesses are currently obligated to pay an annual (recurring) tax on stocks, bonds, notes, governmental leaseholds, and interests in limited partnerships registered with the Securities and Exchange Commission (SEC). Current law exempts from the annual (recurring) tax \$250,000 for each natural person and \$500,000 for each natural person and spouse filing a joint return. The law also provides a \$250,000 exemption for all other taxpayers, including businesses.

History of the Intangible Taxes:

The Florida Constitution caps the rate of the intangibles tax at 2 mills. In 1992, the rate was raised from 1.5 to 2 mills. In 1998 several significant changes were made to the intangibles tax. The minimum amount of the annual tax due was raised from \$5 to \$60. One-third of accounts receivable were exempted from the tax and the Legislature expressed the intent to completely exempt accounts receivable from the tax. In 1999, the Legislature reduced the rate to 1.5 mills and increased the exemption for accounts receivable to two-thirds. In 2000, the Legislature further reduced the rate to 1 mill and completely exempted accounts receivable from this tax. Effective January 2004, the personal exemption were increased from \$20,000 to \$250,000 for individuals and from \$40,000 to \$500,000 for married couples filing a joint return.

Tax changes made by the bill:

This bill repeals the 1 mill annual (recurring) intangible personal property tax imposed pursuant to Chapter 199, F.S. No changes are made to the non-recurring 2 mills tax on notes and obligations secured by liens on Florida realty.

C. SECTION DIRECTORY:

Section 1. Eliminates all of Part I of Chapter 199, Intangible Personal Property Taxes. Also eliminates s.199.175, F.S., concerning the taxable situs of property formerly subject to the tax and s.199.185, F.S., which exempted certain intangible property from the annual and non-recurring taxes.

Section 2. Eliminates a reference to s. 199.183 (1), F.S. found in s. 28.35, F.S., the Florida Clerks of Court Operations Corporation.

Section 3. Amends s. 192.0105, F.S., to correct a reference to the right of confidentiality in s. 193.114(5), F.S.

- Section 4. Amends s. 192.032, F.S., to eliminate a reference to the situs of intangible personal property.
- Section 5. Amends s. 192.042, F.S., to eliminate a reference to the date of assessment for intangible personal property.
- Section 6. Amends s. 192.091, F.S. to eliminate a reference to commissions on intangible property taxes in a section concerning property appraisers and tax collectors.
- Section 7. Amends s. 193.114, F.S. to eliminate the DOR's duty to promulgate regulations and forms for developing intangible property tax rolls.
- Section 8. Amends s. 196.015, F.S., to eliminate the filing of an intangible tax return as evidence of permanent residency.
- Section 9. Amends s.196.199, F.S., to replace a definition previously contained in s. 199.023(1) (d), F.S., concerning leaseholds or other possessory interests in real property owned by governmental entities and leased by those entities undeveloped or predominantly used for residential or commercial purposes.
- Sections 10. Eliminates a reference to the ad valorem intangible tax in s. 196.1993, F.S.
- Section 11. Amends s. 199.133, F.S., to eliminate references to the levy of the annual intangible tax.
- Sections 12. Eliminates references to the payment of the annual tax and leaseholds contained in s. 199.183, F.S.
- Section 13. Eliminates a reference to the books and records of taxpayers concerning the annual tax in s. 199.218, F.S.
- Section 14. Eliminates references to the failure to file the annual intangible tax return in s. 199.232, F.S.
- Section 15. Eliminates references to the penalties for failure to pay the annual tax in s.199.282, F.S.
- Section 16. Eliminates references in s. 199.292, F.S. to the revenues from the annual leasehold tax described in s. 199.023(1) (d), F.S.
- Section 17. Amends ss 199.303 F.S. and 493.6102, F.S., to conform to state Legislative intent that all intangible taxes due and owing for calendar year 2005 and prior years be paid, assessed and audited.
- Section 18. Amends s. 201.23, F.S., to eliminate a reference to the intangible tax and provides a new definition of "banking organization," for purposes of an exemption from documentary stamp taxes for notes issued in international banking transactions. The definition of international banking facility is moved to Chapter 201, F.S.
- Section 19. Eliminate references to the intangible tax in s. 212.02., F.S.
- Section 20. Amends s. 213.053, F.S., to eliminate confidentiality of information relative to s. 199.1055, F.S.
- Section 21. Eliminates references to tax exemptions contained in s. 213.054, F.S.

Section 22. Amends s. 213.27, F.S., to eliminate language permitting the DOR to contract with businesses to identify sources of intangible tax liability.

Sections 23 and 24. Delete tax credits under ss. 220.1845 and 376.30781, F.S., for annual intangible taxes paid and strike references to Chapter 199, F.S.

Section 25. Amends s. 493.6102, F.S., to conform an exemption for security officers of churches, which were previously defined by a reference to s. 199.183(2)(a), F.S.

Section 26. Eliminates a finance charge for intangible personal property tax on a loan, note, or obligation secured by a lien on real property under s. 516.031, F.S.

Section 27. Eliminates intangible tax as a revenue source in Section 650.05, F.S.

Section 28. Amends s. 655.071, F.S., to conform the reference for "international banking facility" from s. 199.023, F.S., to s. 201.23, F.S.

Section 29. Effective January 1, 2008, amends s. 733.702, F.S., to eliminate language which allowed the DOR to file claims against an estate for intangibles tax.

Section 30. Upon the Act becoming law, permits the DOR to enact emergency rules to implement the changes made by the bill.

Section 31. Unless otherwise provided in the Act, provides an effective date of January 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference determined that the repeal of the recurring intangibles tax would result in a negative of \$235 million in state revenues and a negative \$1.2 million in local revenues during FY 2005-2006, and a negative \$299.5 million in state revenues and a negative \$1.2 million in local revenues for FY 2006-2007.

| | <u>FY 2005-2006</u> | <u>FY 2006-2007</u> |
|-----------------|---------------------|---------------------|
| General Revenue | (\$235 m) | (\$299.5 m) |

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

| | <u>FY 2005-2006</u> | <u>FY 2006-2007</u> |
|---------------|---------------------|---------------------|
| Local Revenue | (\$1.2 m) | (\$1.2 m) |

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals and businesses will no longer pay annual intangibles tax.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision is not applicable as the bill does not affect municipal or county government. Section 199.292, F.S., provides that the revenues derived from the annual tax on certain governmental leaseholds are to be returned to the local school board for the county in which the property subject to the leasehold is situated.

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 11, 2005 the Finance and Tax Committee adopted a strike-all amendment. The amendment was technical in nature and involved re-numbering existing sections and eliminating certain references in the bill.