

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 209 CS Annual Intangible Personal Property Tax
SPONSOR(S): Brummer and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 260

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee	5 Y, 3 N, w/CS	Levin	Diez-Arguelles
2) Fiscal Council		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 .5 mill on the value of stocks, bonds, notes, and other intangible personal property having a taxable situs in Florida; as well as a non-recurring tax on obligations for the payment of money secured by liens on Florida real property at the rate of 2 mills. Individuals and businesses are currently obligated to pay an annual (recurring) tax on stocks, bonds, notes, government leaseholds, and interests in limited partnerships registered with the Securities and Exchange Commission (SEC). Current law exempts from the annual (recurring) tax \$250,000 of intangible personal property 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 intangible personal property of corporations and other legal entities.

This bill repeals the .5 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 nor to the .5 mill annual tax imposed on government leaseholds.

The preliminary fiscal impact of the bill on state revenue is a negative \$129.6 million in FY 2006-2007, and a negative \$161.2 million in FY 2007-08.

This bill provides an effective date of January 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes: After December 31, 2006, Florida taxpayers will no longer be required to pay the annual intangible personal property 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 .5 mill on the value of stocks, bonds, notes, and other intangible personal property having a taxable situs in Florida; as well as a non-recurring tax on obligations for the payment of money secured by liens on Florida real property 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 of intangible personal property 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 intangible personal property for all other taxpayers, including corporations and other legal entities.

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 annual 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 exemptions were increased from \$20,000 to \$250,000 for individuals and from \$40,000 to \$500,000 for married couples filing a joint return. In 2005, the Legislature reduced the annual tax to .5 mill, effective January 1, 2006.

Tax changes made by the bill:

This bill eliminates the .5 mill annual (recurring) intangible personal property tax imposed pursuant to Chapter 199, F.S. There are various provisions elsewhere in the Florida Statutes which contain references to the recurring intangible tax, and these references are also repealed. The bill also provides that certain leasehold and other possessory interests in governmental lands will continue to be taxed as intangible personal property pursuant to Chapter 199, F.S., as it existed prior to January 1, 2007. 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. Repeals all of Part I of Chapter 199, Intangible Personal Property Taxes. Also repeals s.199.175, F.S., concerning the taxable situs of property formerly subject to the tax and s.199.185, F.S., which exempts 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., Florida Taxpayer's Bill of Rights, 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 and renumber subsequent sections of the statute.

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 Department of Revenue'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(2)(b), F.S., to preserve the intangible tax on leaseholds or other possessory interests defined by s. 199.023(1)(d), F.S. 2005.

Sections 10. Amends s. 199.133, F.S., to eliminate references to the levy of the annual intangible tax.

Sections 11. Eliminates references to the payment of the annual tax contained in s. 199.183, F.S. Amends a reference to leasehold and other possessory interests defined by s. 199.0023(1)(d), F.S. 2005.

Section 12. Eliminates the requirement for brokers to preserve all books and records relating to the information reporting requirements of s. 199.218, F.S.

Section 13. Eliminates references to the failure to file the annual intangible tax return contained in s. 199.232, F.S.

Section 14. Eliminates references to the penalties for failure to pay the annual tax contained in s.199.282, F.S.

Section 15. Amends references in s. 199.292, F.S., to the disposition of revenues from the annual leasehold tax described in s. 199.023(1)(d), F.S. 2005.

Section 16. Amends s. 199.303, F.S., to state legislative intent that all intangible taxes due and owing for calendar year 2006 and prior years be paid, assessed and audited.

Section 17. Eliminates references to the intangible tax in s. 212.02(19), F.S.

Section 18. Amends s. 213.053, F.S., to eliminate confidentiality of information relative to s. 199.1055, F.S.

Section 19. Repeals references to tax exemptions claimed pursuant to s. 199.185(1)(i), F.S., contained within s. 213.054, F.S.

Section 20. Amends s. 213.27, F.S., to eliminate language permitting the DOR to contract with businesses to identify sources of intangible tax liability.

Sections 21 and 22. Eliminate 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 23. Amends an exemption found in s. 493.6102, F.S., for security officers of churches and cemeteries, which were previously defined by a reference to s. 199.183(2)(a), F.S.

Section 24. Eliminates a reference to intangible tax as a source of revenue contained within s. 650.05, F.S.

Section 25. Amends a reference in s. 655.071, F.S., to an "international banking facility" from a definition found in s. 199.023, F.S., to a definition found in s. 201.23, F.S.

Section 26. Effective January 1, 2009, amends s. 733.702, F.S., to eliminate language which allowed the Department of Revenue to file claims against an estate for intangibles tax.

Section 27. Permits the Department of Revenue to enact emergency rules to implement the changes made by the bill, once the bill becomes law.

Section 28. Unless otherwise provided in the Act, provides an effective date of January 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill is estimated to have the following fiscal impacts on government. The Revenue Estimating Conference will meet later this year to adopt an official estimate.

	<u>FY 2006-2007</u>	<u>FY 2007-2008</u>
General Revenue	(\$129.6 m)	(\$161.2 m)

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues

None:

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 bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds, does not reduce a county's authority to raise revenues and does not reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

B. RULE-MAKING AUTHORITY:

The Department of Revenue is given rule making authority to promulgate emergency rules upon the bill becoming law.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Finance & Tax committee adopted five amendments. Four of the amendments changed the language used to reference a currently existing statutory section. The fifth amendment restored to statute language directing the revenues from leaseholds described in s. 199.023(1)(d), F.S., to the local school boards.