

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Commerce and Consumer Services Committee

BILL: SB 714

SPONSOR: Senator Atwater

SUBJECT: Annual Intangibles Tax

DATE: March 8, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barrett	Cooper	CM	Favorable
2.	_____	_____	BI	_____
3.	_____	_____	GE	_____
4.	_____	_____	WM	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Chapter 199, F.S., imposes two different intangible personal property taxes: an annual (or recurring) tax is imposed at the rate of 0.5 mill on the value of stocks, bonds, notes, and other intangible personal property; a non-recurring tax is imposed 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 0.5 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

This bill repeals the following sections of the Florida Statutes: 199.012, 199.023, 199.032, 199.033, 199.042, 199.052, 199.057, 199.062, 199.103, 199.1055, 199.106, 199.175, and 199.185.

This bill amends the following sections of the Florida Statutes: 28.35, 192.0105, 192.032, 192.042, 192.091, 193.114, 196.015, 196.199, 199.133, 199.183, 199.218, 199.232, 199.282, 199.292, 199.303, 212.02, 213.053, 213.054, 213.27, 220.1845, 376.30781, 493.6102, 650.05, 655.071, and 733.702.

II. Present Situation:

Chapter 199, F.S., currently imposes two different intangible personal property taxes: an annual (or recurring) tax is imposed at the rate of 0.5 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 Intangibles Tax

Before 1924, there was no constitutional distinction between intangible property and other property, and all was subject to ad valorem taxation. The Florida Constitution was amended in 1924 to allow a special tax rate for intangible property, and in 1931 this provision was enacted into law. The 2 mill tax was assessed and collected at the county level and was deposited into the states' General Revenue Fund. In 1941 intangibles tax revenue was used to fund county tax assessors and collectors, and the remainder was divided between General Revenue (75 percent) and the county where collected (25 percent). Tax rates were changed to 1 mill on stocks and bonds, 3 mills on mortgages, and 1/20 mill on money.

In 1951 the tax rate on mortgages was reduced to 2 mills, and in 1955 the disposition of intangibles tax revenue was changed to pay for retirement of state and county officers and employees, with the balance going to General Revenue. In 1957, the tax on stocks and bonds was raised to 2 mills. In 1961, the Legislature passed a 2-year phased reduction to 1 mill.

In 1967, 55 percent of net collections was shared with counties where collected. The Department of Revenue began assessing and collecting the tax in 1971 and the tax on money was repealed. The Revenue Sharing Act of 1972 channeled 55 percent to the counties through a revenue sharing formula. In 1974 the \$20,000 annual exemption for the tax on stocks and bonds for each taxpayer and spouse was created.

Several changes were made to the intangibles tax in 1990. The annual tax rate was increased to 1.5 mills with an additional exemption of \$100,000 per person and spouse against the additional .5 mill. The tax base was broadened to include interests in limited partnerships registered with the SEC and an exemption from the additional .5 mill levy was provided to charitable trusts which distribute 95 percent of their income to organizations exempt from federal income tax under s. 501(c)3. of the I.R.C. The credit that banks can take against the corporate income tax for intangibles taxes paid was raised from 40 percent to 65 percent of corporate taxes due and banks were guaranteed the higher of this credit or a credit equal to 33 percent of their intangibles tax liability. The distribution was changed in 1990 from 55 percent to 41.3 percent to the Revenue Sharing Trust Fund for Counties and from 45% to 58.7% to the General Revenue Fund. This distribution change was calculated to direct the additional revenue to the General Revenue Fund.

In 1992, the tax on intangible personal property was increased from 1.5 mills to 2 mills with banks and savings associations being exempt from the .5 mill increase. The personal exemption of \$100,000 for individuals and \$200,000 per couple applied to the additional .5 mill. The intangibles tax distribution was changed from 41.3 percent to 33.5 percent to the Revenue Sharing Trust Fund for Counties and from 58.7 percent to 66.5 percent to the General Revenue Fund. This distribution change was calculated to direct the additional revenue to the General Revenue Fund.

In 1998 several significant changes were made to the intangibles tax: the minimum tax amount due before a return and payment are required was raised from \$5 to \$60 dollars; one-third of accounts receivable was exempted from the intangibles tax beginning January 1, 1999, and the act expressed the intent of the Legislature to increase the exempt amount to two-thirds on January 1, 2000, and to completely exempt accounts receivable on January 1, 2001; the penalties for late payment and late filing were limited to a total of 10 percent per month and 50 percent of the total tax due. The penalty for under-reporting and undervaluation was reduced from 30 percent to 10 percent; and banks, savings associations, and insurers were exempted from intangibles tax. The distribution rate was changed to 35.3 percent for the Revenue Sharing Trust Fund for Counties for FY 1998-1999, and to 37.7 percent for FY 1999-2000.

In 1999, the Legislature reduced the annual tax on intangible assets to a 1.5 mill tax rate, and increased the exemption for accounts receivable to two-thirds. The law also provided that limited liability companies may file consolidated intangibles tax returns. Certain charitable trusts were fully exempted from the annual tax, the calculation of tax on future advances was changed, and an exemption for unit investment trusts was provided.

In 2000, the Legislature reduced the annual tax rate to 1 mill and fully exempted accounts receivable from the tax. It revised the treatment of Florida trusts, relieving Florida trustees of paying intangibles tax on trust assets, and it provided that a Florida resident with a beneficial interest in a trust is responsible for reporting his or her share of trust assets and paying intangibles tax on it. The law also repealed the sharing of intangibles tax with counties (and replaced the revenue with sales tax).

Chapter 2001-225, L.O.F., increased the exemption against the annual tax to \$250,000 for each natural taxpayer and spouse, and created a \$250,000 exemption for all other taxpayers, mainly businesses. In Special Session C in December, 2001, the increased exemption level was postponed until the 2004 tax year. The higher exemption rates and new exemption for business filers enacted in ch. 2001-255, L.O.F., and postponed in December 2001 went into effect January 1, 2004.

Chapter 2004-234, Laws of Florida, provided that all proceeds of the intangibles tax are deposited in the General Revenue fund, except for revenue collected pursuant to the tax on governmental leaseholds, which is returned to the local school boards in the counties where the leasehold property is located.

Chapter 2005-270, Laws of Florida, reduced the annual rate of the tax on intangible personal property from 1 mill to 0.5 mills, effective January 1, 2006.

III. Effect of Proposed Changes:

This bill eliminates the .5 mill annual (recurring) intangible personal property tax imposed pursuant to ch. 199, F.S. There are various provisions elsewhere in the Florida Statutes which contain references to the recurring intangible personal property tax; these references are deleted. This bill also provides that certain leasehold and other possessory interests in governmental lands will continue to be taxed as intangible personal property pursuant to ch. 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.

Section 1 repeals the annual (recurring) intangible personal property tax.

Specifically, the following sections of the Florida Statutes are repealed:

- Section 199.012, F.S., cites ch. 199 as the Intangible Personal Property Tax Act (act);
- Section 199.023, F.S., provides definitions of terms used in the act;
- Section 199.032, F.S., provides that, effective January 1, 2006, the annual intangibles tax is levied at a rate of .5 mills;
- Section 199.033, F.S., provides the intangibles tax rate for the Florida's Future Investment Fund;
- Section 199.042, F.S., requires that the annual intangibles tax is due on June 30 of each year;
- Section 199.052, F.S., provides administrative provisions relating to tax returns;
- Section 199.057, F.S., provides that a corporation may elect to pay the annual intangibles tax on any class of its stock, as agent for its Florida stockholders;
- Section 199.062, F.S., provides that all security dealers and investment advisors must file a position statement with DOR for each of its Florida customers;
- Section 199.103, F.S., provides that all intangible personal property shall be subject to the annual intangibles tax at its just valuation as of January 1 of each year;
- Section 199.1055, F.S., provides for the contaminated site rehabilitation intangible personal property tax credit;
- Section 199.106, F.S., allows for a credit against the annual intangibles tax equal to the amount of a similar tax imposed by another state on the same property;
- Section 199.175, F.S., relates to the taxable situs of property formerly subject to annual intangibles tax; and
- Section 199.185, F.S., provides exemptions to the annual intangibles tax.

Sections 2-8, 10-15, 17-22, and 24-25 amend various sections of the Florida Statutes to delete or amend references to the annual (recurring) intangible personal property tax, which is repealed in section 1 of this bill.

Specifically, the bill amends the following sections of statute:

- Section 2 amends s. 28.35, F.S., relating to the Florida Clerks of Court Operations Corporation, to remove a reference to s. 199.183(1), F.S.
- Section 3 amends s. 192.0105, F.S., Florida Taxpayer's Bill of Rights, to correct a reference to the right of confidentiality specified in s. 193.114(5), F.S.

- Section 4 amends s. 192.032, F.S., to remove 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 remove a reference to the date of assessment for intangible personal property.
- Section 6 amends s. 192.091(5) and (6), F.S., relating to commissions of property appraisers and tax collectors to remove a reference to commissions on intangible property taxes.
- Section 7 amends s. 193.114, F.S., to remove DOR's duty to promulgate regulations and forms for developing intangible property tax rolls.
- Section 8 amends s. 196.015, F.S., to remove the filing of an intangibles tax return as evidence of permanent residency.
- Section 10 amends s. 199.133(2), F.S., to remove references to the levy of the annual intangible personal property tax.
- Section 11 amends s. 199.183, F.S., to remove references to the payment of the annual intangibles tax and to amend a reference to leasehold and other possessory interests defined by s. 199.0023(1)(d), F.S.(2005).
- Section 12 amends s. 199.218, F.S., to remove the requirement that brokers preserve the books and records relating to s. 199.062, F.S., for 3 years.
- Section 13 amends s. 199.232, F.S., to remove references relating to the failure to file the annual intangibles tax return contained in s. 199.232, F.S.
- Section 14 amends s. 199.282, F.S., to remove provisions relating to the penalties for failure to pay the annual intangibles tax.
- Section 15 amends s. 199.292, F.S., to amend references to s. 199.023(1)(d), F.S.(2005).
- Section 17 amends s. 212.02(19), F.S., to remove references to the intangibles tax.
- Section 18 amends s. 213.053(7), F.S., relating to confidentiality and information sharing, to remove references to s. 199.1055, F.S.
- Section 19 amends s. 213.054, F.S., to remove references to tax exemptions claimed pursuant to s. 199.185(1)(i), F.S.
- Section 20 amends s. 213.27, F.S., to remove language permitting DOR to contract with businesses to identify sources of intangible personal property tax liability.
- Section 21 amends s. 220.1845, F.S., which provides for the contaminated site rehabilitation corporate income tax credit, to remove references to s. 199.1055, F.S.
- Section 22 amends s. 376.30781, F.S., relating to the partial tax credits for the rehabilitation of dry-cleaning-solvent-contaminated sites and brownfield sites, to remove references to s. 199.1055, F.S.
- Section 24 amends s. 650.05, F.S., to remove a reference to the intangibles tax.
- Section 25 amends s. 655.071, F.S., to remove a reference to a definition of "international banking facility" in s. 199.023, F.S., and replaces it with a reference to a definition of "international banking facility" in s. 201.23, F.S.

Section 9 amends s. 196.199(2), F.S., to preserve the intangibles tax on leaseholds or other possessory interests defined by s. 199.023(1)(d), F.S. (2005).

Section 16 amends s. 199.303, F.S., to express legislative intent that all annual intangible personal property taxes imposed by law for calendar year 2006 and prior must be paid, and that DOR continue to assess and collect all taxes due.

Section 23 amends s. 493.6102, F.S., to remove a reference to a definition of religious institution in s. 199.183(2), F.S., and replaces the reference with the actual definition found in that section.

Section 26 provides that, effective January 1, 2009, s. 733.702(5), F.S., is deleted; this section authorizes DOR to file a claim against an estate for intangible personal property tax.

Section 27 authorizes DOR to adopt emergency rules to implement any changes made to ch. 199, F.S., and provides that any emergency rules adopted by DOR are effective for 6 months and can be renewed.

Section 28 provides that, unless otherwise provided, this act shall take effect January 1, 2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

On February 10, 2006, the Revenue Estimating Conference estimated that this bill would result in a revenue loss of \$130.6 million in fiscal year 2006-07 and \$161.2 million in fiscal year 2007-08.

B. Private Sector Impact:

Individuals and businesses currently subject to the annual intangibles tax will benefit, as they will no longer be subject to the annual intangibles tax.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

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