

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SB 344

INTRODUCER: Senator Altman

SUBJECT: Communications Services Taxes

DATE: February 3, 2010 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | White | Caldwell | CU | Favorable |
| 2. | Howes | Yeatman | CA | Favorable |
| 3. | | | FT | |
| 4. | | | WPSC | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

This bill allows providers of communications services registered in this state to apply credits for bad debts against taxes due. The bill provides that dealers may determine the amount of credit for bad debt by employing a proportionate allocation method. These changes would allow a determination of bad debt credit to be based on current gross taxes due to jurisdictions.

This bill substantially amends section 202.29, Florida Statutes.

II. Present Situation:

Chapter 202, F.S., is known as the Communications Services Tax Simplification Law. Dealers are the registered providers of communications services in this state.¹ Dealers must file a return with the Department of Revenue (department) and are subject to taxation.² The sale of communications services which originate and terminate in Florida, or originate or terminate in Florida and are billed to a Florida address, are subject to state communications tax and a gross receipts tax.³

Section 202.29, F.S., relates to dealing with bad debt. Bad debt refers to an unpaid bill that remains unpaid after multiple attempts to collect, resulting in a decision by the company to write the debt off. Since the full amount of tax is due at the moment of a communications service sale in the same manner as a cash sale,⁴ complications can arise when dealers incur bad debt on unpaid balances. Specifically, the issue with bad debt is that a company may be paying a tax that is unrecoverable from a worthless account.

¹ 202.11(3), F.S.

² 202.27, F.S.

³ Florida Tax Handbook Including Fiscal Impact of Potential Changes, (2008), p. 43.

⁴ 202.16, F.S.

However, a dealer who has paid the communications services tax is allowed a credit or refund for tax paid on bad debt.⁵ Dealers may claim the credit or refund within 12 months following the last day of the calendar year for which the bad debt was charged off on the taxpayer's federal income tax return.⁶

The department states that the dealer reports a credit for bad debts separately from the tax when the communications services tax return is filed. The dealer is required to report the credits by time period as well as by jurisdiction where the original sale occurred, and which subsequently became a worthless account. If accounts with bad debt subsequently are paid to the dealer, that amount must be included in the first return filed after such receipt and the tax paid accordingly.⁷

Legislative intent in this area has focused on the goals of simplification and administrative efficiency.⁸ Simplification is expected to lower the cost of collecting taxes and fees. According to statute, simplification should increase service availability, and place downward pressure on price. Newfound administrative efficiency can be demonstrated by reducing the number of returns that a provider must file each month.

III. Effect of Proposed Changes:

The bill amends s. 202.29, F.S., by adding subsection (4) to allow dealers to apply credits for bad debts against the tax due to the state⁹ and local jurisdictions.¹⁰ This would have a “netting” effect for reporting purposes, but could not result in an amount less than zero.

A proportionate allocation method could be used by dealers to determine the amount of bad debt credit attributable to the state or local jurisdiction. Allocations done separately for the state portion and local portion of the communications services tax would no longer have the same reporting requirements. Rather than requiring dealers to identify a specific time period in which the sales occurred that eventually became worthless accounts, a proportionate allocation method would be based upon current gross taxes due. Additionally, the jurisdiction in which the particular worthless account originated no longer would need to be reported. The department would also be given authority to approve other allocation methods.

The bill provides a retroactive effective date of July 1, 2000. However, the retroactive effective date does not create a right to a refund of tax, penalty, or interest remitted prior to the effective date of this bill, which is July 1, 2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁵ 202.29, F.S.

⁶ 202.29(1), F.S.

⁷ 202.29(2), F.S.

⁸ 202.105, F.S.

⁹ State taxation is provided in 202.12, F.S.

¹⁰ Taxation by local jurisdictions is provided in 202.19, F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

By allowing companies to net the bad debt from taxes due, the administrative and regulatory burden and the associated costs should be reduced.

C. Government Sector Impact:

This change could ease the administrative burden of overseeing the netting of bad debt against taxes due.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.