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 Finance and Tax Committee

BILL: SB 344

INTRODUCER: Senator Altman

SUBJECT: Communications Services Taxes

DATE: February 26, 2010 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Caldwell	CU	**Favorable**
2.	Howes	Yeatman	CA	**Favorable**
3.	Fournier	McKee	FT	**Favorable**
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 the state communications services tax, local communications services taxes, and a gross receipts tax.[3]

"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. Section 202.29, F.S., provides that a dealer who has paid the tax on communications services may take a credit or obtain a refund for tax paid on bad debts. A dealer may claim the credit or refund within 12 months following the

[1] 202.11(3), F.S.
[2] 202.27, F.S.
[3] Florida Tax Handbook Including Fiscal Impact of Potential Changes, (2008), p. 43.

last day of the calendar year for which the bad debt was charged off on the taxpayer's federal income tax return.[4] However, difficulties have arisen in determining how to situs the credit across all the jurisdictions in which the dealer made sales of communications services.

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 state[5] and local jurisdictions.[6] This would have a "netting" effect for reporting purposes, but could not result in an amount less than zero.

The bill allows dealers to use a proportionate allocation 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.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

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[4] 202.29(1), F.S.
[5] State taxation is provided in 202.12, F.S.
[6] Taxation by local jurisdictions is provided in 202.19, F.S.

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.