

**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.)

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Prepared By: The Professional Staff of the Budget Subcommittee on Finance and Tax

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BILL: SB 1062

INTRODUCER: Senator Detert

SUBJECT: Tangible Personal Property Taxes

DATE: February 16, 2012      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	<b>Favorable</b>
2.	Babin	Diez-Arguelles	BFT	<b>Pre-meeting</b>
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill implements the proposed constitutional amendment contained in SJR 1064, which grants the Legislature the authority to exempt tangible personal property from ad valorem tax.

Current law provides a \$25,000 exemption for tangible personal property subject to ad valorem tax. This bill waives the requirement to file a tax return when a person’s property has a taxable value of \$25,000 or less, effectively creating an additional exemption for tangible personal property up to \$50,000. If SJR 1064 and this bill are passed, tangible personal property assessed at \$50,000 or below will be fully exempt. Taxpayers with tangible personal property assessed above \$50,000 will not qualify for the additional exemption provided in the bill, and thus only the initial \$25,000 of such property will be exempt.

The bill takes effect upon voter approval of the constitutional amendment proposed by SJR 1064.

This bill substantially amends section 196.183, Florida Statutes.

**II. Present Situation:**

**Ad valorem Taxation**

The Florida Constitution grants exclusive authority to local governments to levy ad valorem taxes on real and tangible personal property,<sup>1</sup> and it establishes various requirements that local governments must follow when levying and administering ad valorem taxes. It requires that all

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<sup>1</sup> FLA. CONST., art. VII, s. 1(a) and s. 9(a).

ad valorem taxation be at a uniform rate within each taxing unit<sup>2</sup> and that property be assessed at just value unless the Constitution provides for a different assessment standard.<sup>3</sup>

### **Constitutional Provisions for Tangible Personal Property**

The following provisions of Article VII of the Florida Constitution relate specifically to tangible personal property:

- Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes, as defined by law, shall be subject to a license tax for their operation in the amounts and for the purposes prescribed by law, but shall not be subject to ad valorem taxes.<sup>4</sup>
- There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars . . .<sup>5</sup>
- Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.<sup>6</sup>

Tangible personal property not excluded by the above provisions is subject to ad valorem taxation. However, Article VII, section 3(e) of the Florida Constitution, provides for a \$25,000 exemption from the assessed value of tangible personal property subject to ad valorem taxation.

### **Tangible Personal Property<sup>7</sup>**

Florida Statutes expand the constitutional exemption for household goods and personal effects, as well as the constitutional exemption for stock in trade (inventory). Pursuant to these statutes, household goods and personal effects, as well as inventory are fully exempt.<sup>8</sup>

Due to the constitutional and statutory provisions, tangible personal property taxes are generally only imposed on non-inventory, business-related tangible personal property in excess of \$25,000.

Anyone owning tangible personal property on January 1, who has a proprietorship, partnership, corporation, is a self-employed agent or a contractor, must file a tangible personal property return to the property appraiser by April 1 each year. Property owners who lease, lend or rent property must also file.

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<sup>2</sup> FLA. CONST., art. VII, s. 2.

<sup>3</sup> FLA. CONST., art. VII, s. 4.

<sup>4</sup> FLA. CONST., art. VII, s. 1(b).

<sup>5</sup> FLA. CONST., art. VII, s. 3(b).

<sup>6</sup> FLA. CONST., art. VII, s. 4(c).

<sup>7</sup> See the Florida Department of Revenue website for additional information about tangible personal property and appraiser guidelines <http://dor.myflorida.com/dor/property/tpp/>.

<sup>8</sup> See ss. 196.181 and 196.185, Florida Statutes.

Section 196.183(1), F.S., provides that a single return must be filed for each site in the county where the owner of tangible personal property transacts business. Owners of freestanding property placed at multiple sites, other than sites where the owner transacts business, must file a single return, which must include all such property located in the county and the location of the property. Freestanding property placed at multiple sites includes vending and amusement machines, LP/propane tanks, utility and cable company property, billboards, leased equipment, and similar property that is not customarily located in the offices, stores, or plants of the owner, but is placed throughout the county.

Section 196.183(3), F.S., waives the return filing requirement under s. 193.052, F.S.,<sup>9</sup> for taxpayers owning taxable property the value of which, as listed on the return, does not exceed the \$25,000 exemption. In order to qualify for this waiver, a taxpayer must file an initial return on which the exemption is taken. If, in subsequent years, the taxpayer owns taxable property the value of which, as listed on the return, exceeds the exemption, the taxpayer is obligated to file a return. The taxpayer may again qualify for the waiver only after filing a return on which the value as listed on the return does not exceed the exemption. A return filed or required to be filed shall be considered an application filed or required to be filed for the exemption under this section.

### **Department of Revenue Data on Property Taxes**

Information provided by the Department of Revenue shows that, state-wide, tangible personal property taxes levied by counties represented 7.6% of the total county property taxes levied in FY 2011-12. Tangible personal property taxes levied by municipalities represented 6.1% of the total municipal property taxes levied in FY 2011-12.<sup>10</sup>

Individual county and municipality distribution of taxes levied by property type are also available on the DOR website.<sup>11</sup>

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 196.183, F.S., to provide that the annual tangible personal property filing requirement is waived for taxpayers who own taxable personal property:

- the value of which, as listed on the return, does not exceed the exemption provided in s. 196.183, F.S; or
- the taxable value of which is \$25,000 or less.

In addition, this section of the bill provides that in order to qualify for the filing waiver, a taxpayer must file an initial return disclosing the taxable value of the property. The taxpayer will not incur any tax liability as a result of this filing. The taxpayer is not required to file another return until the taxable value of the personal property owned by the taxpayer exceeds \$25,000.

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<sup>9</sup> Chapter 193, F.S., governs assessments. Section 193.052, F.S., provides that returns shall be filed for tangible personal property and property specifically required to be returned by other provisions in this title.

<sup>10</sup>Florida Department of Revenue *Distribution of Taxes Levied by Property Type, County and Municipal Governments Table: Fiscal Year 2011-12* available at [ftp://sdrftp03.dor.state.fl.us/County\\_Municipal\\_Data/11table2/statewide\\_table2.pdf](ftp://sdrftp03.dor.state.fl.us/County_Municipal_Data/11table2/statewide_table2.pdf).

<sup>11</sup>Florida Department of Revenue, *Distribution of Taxes Levied by Property Type - County and Municipal Governments* available at <http://dor.myflorida.com/dor/property/taxpayers/cmdata/table2.html>.

The taxpayer may re-qualify for the waiver by showing that the value of taxable personal property owned by the taxpayer is \$25,000 or less.

The effect of this approach to implementing the constitutional amendment contained in SJR 1064 is that it provides an additional \$25,000 exemption from ad valorem taxation of tangible personal property, but only to persons who report on their returns property valued at \$50,000 or less. If the total value required to be reported on the taxpayer's return exceeds \$50,000, the additional exemption created by this bill is unavailable.

**Section 2** provides that this act shall take effect on the same effective date of the amendment to the State Constitution contained in SJR 1064 relating to personal property taxes, and shall apply beginning with the 2013 tax roll.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The bill implements a constitutional amendment to which the mandates provision of s. 18, Art. VII of the State Constitution, does not apply.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

The Revenue Estimating Conference adopted an indeterminate negative estimate for the bill due to the need for the passage of the constitutional amendment in SJR 1064. Should the amendment and this bill pass, the statewide impact on ad valorem tax collections would be -\$20.1 million in 2013-14, -\$20.3 million in 2014-15, and -\$20.6 million in 2015-16.<sup>12</sup>

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<sup>12</sup> Office of Economic and Demographic Research, *Analysis of HB 1005 and SB 1062: Tangible Personal Property Exemption* (Jan. 5, 2012) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/page186-187.pdf>.

**B. Private Sector Impact:**

If this bill had been in effect for the 2011 tax rolls, approximately 156,000 additional taxpayer accounts would have been exempt from the tax. This represents nearly 50% of all accounts with a positive taxable value.<sup>13</sup>

**C. Government Sector Impact:**

The DOR has determined that the provisions of the bill will necessitate amending of Rule 12D-16.001, F.A.C., to make changes to the DR-405, Return of Tangible Personal Property.<sup>14</sup> The department did not anticipate an operational impact from the bill.

**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.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>13</sup>*Id.* .

<sup>14</sup> Florida Department of Revenue, *Analysis of SB 1062: Tangible Personal Property* (Dec. 16, 2012) (on file with the Senate Committee on Community Affairs).