

**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 Appropriations Subcommittee on Finance and Tax

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BILL: SB 792

INTRODUCER: Senator Flores

SUBJECT: Tax on Sales, Use, and Other Transactions

DATE: March 18, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Baye</u>	<u>Hrdlicka</u>	<u>CM</u>	<b>Favorable</b>
2.	<u>Cote</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	<b>Pre-meeting</b>
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 792 provides for a state and local sales tax exemption for a 3-day period from August 1 through August 3, 2014, for the purchases of clothing costing \$75 or less per item, school supplies costing \$15 or less per item, and personal computers and related accessories costing \$750 or less.

The Revenue Estimating Conference estimates that the bill will have a nonrecurring, negative impact of \$31.8 million to the General Revenue Fund for Fiscal Year 2014-2015 and a nonrecurring, negative impact of \$7.2 million to local governments.

The bill appropriates \$235,695 from the General Revenue Fund to the Department of Revenue to implement the law and notify sales and use tax dealers prior to the beginning of the sales tax holiday.

**II. Present Situation:**

Chapter 212, F.S., levies a 6 percent sales and use tax on most sales of tangible personal property, including books, clothing, footwear, wallets, bags, school supplies, and computers.<sup>1</sup> Section 212.08, F.S., provides for specific exemptions from the sales and use tax imposed by the chapter.

Local governments are authorized to levy several types of local discretionary sales surtaxes pursuant to s. 212.055, F.S. The rate of the discretionary sales surtax depends on the county, while some counties do not have a surtax.<sup>2</sup> Rates currently range from 0.5 percent to 1.5

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<sup>1</sup> Section 212.05, F.S.

<sup>2</sup>Florida Department of Revenue, *Florida's Discretionary Sales Surtax*, <http://dor.myflorida.com/dor/forms/current/gt800019.pdf> (last visited Mar. 5, 2014).

percent.<sup>3</sup> The surtax does not apply to any sales amount above \$5,000 on any item of tangible personal property.<sup>4</sup>

The Legislature has approved sales tax holidays in eight of the past ten years. The length of the exemption period has varied from 3 to 10 days. The type and value of exempt items has also varied. The holiday is made available for the benefit of families making back-to-school purchases, and is typically offered just prior to the start of a new school year.

### III. Effect of Proposed Changes:

The bill provides an exemption from state and local sales tax during the 3-day period beginning at 12:01 a.m. on August 1, 2014 through 11:59 p.m. on August 3, 2014, for the following items:

- Clothing, wallets, or bags having a sales price of \$75 or less per item.
  - “Clothing” includes footwear, but excludes watches, watchbands, jewelry, umbrellas, handkerchiefs, skis, swim fins, roller blades, and skates.
  - “Bags” includes handbags, backpacks, fanny packs, and diaper bags, but excludes briefcases, suitcases, and other garment bags.
- School supplies having a sales price of \$15 or less per item. The term “school supplies” means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rules, computer disks, protractors, compasses, and calculators.
- Personal computers and related accessories that have a sales price of \$750 or less and are purchased for noncommercial home or personal use.
  - “Personal computers” includes electronic book readers, laptops, desktops, handhelds, tablets, or tower computers, but exclude cell phones, video game consoles, digital media receivers, or devices that are not primarily designed to process data.
  - “Related accessories” includes keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, routers, and nonrecreational software regardless of whether the accessories are used in association with a personal computer base unit. The term excludes furniture or systems, devices, software, monitors with a television tuner, or other peripherals that are designed or intended primarily for recreational use.

The exemptions do not apply to sales within a theme park or entertainment complex, a public lodging establishment, or an airport.

The Department of Revenue is authorized to adopt emergency rules to administer this section.

This act will take effect upon becoming a law.

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<sup>3</sup> Florida Department of Revenue, *Discretionary Sales Surtax Information*, [http://dor.myflorida.com/dor/forms/current/dr15dss\\_1113.pdf](http://dor.myflorida.com/dor/forms/current/dr15dss_1113.pdf) (last visited Mar. 5, 2014).

<sup>4</sup> Section 212.054(2)(b)1., F.S.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

Subsection (b) of s. 18, Art. VII, State Constitution, provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989.

The bill provides a sales tax exemption that will reduce the municipalities' and counties' local option sales tax collections over a three-day period, thereby reducing their revenue-raising authority. However, an exemption may apply because the reduction in local governments' revenue-raising authority may be below the \$1.9 million threshold for an insignificant impact on local governments.

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

None.

**C. Trust Funds Restrictions:**

None.

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

The Revenue Estimating Conference (REC) estimates that SB 792 will have a nonrecurring, negative impact of \$31.8 million to General Revenue for Fiscal Year 2014-2015 and a nonrecurring, negative impact of \$7.2 million to local governments.

**B. Private Sector Impact:**

During the specified exemption period, clothing, wallets, and bags selling for \$75 or less, school supplies selling for \$15 or less, and computers and related accessories selling for \$750 or less can be purchased tax free. Families will be able to save money on clothing and school supplies as the tax exemption period is just before the beginning of a new school year.

**C. Government Sector Impact:**

The bill provides an appropriation of \$235,695 in nonrecurring funds for Fiscal Year 2013-2014 to the Department of Revenue from the General Revenue Fund for purposes of administering this act. Funds from the appropriation that remain unexpended or unencumbered as of June 30, 2014, shall revert and be reappropriated for the same purpose in Fiscal Year 2014-2015.

The Department of Revenue will use the appropriated funds to print and mail tax information publications to approximately 569,000 sales tax dealers.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill authorizes the Department of Revenue to adopt emergency rules.

**VIII. Statutes Affected:**

This bill creates general law not contained in a designated section of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.