

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 Committee on Commerce and Tourism

BILL: SB 490

INTRODUCER: Senators Perry and Hutson

SUBJECT: Tax on Sales, Use, and Other Transactions

DATE: March 29, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	_____	_____	<u>AFT</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 490 establishes a 10-day sales tax holiday beginning August 4, 2017, and ending August 13, 2017. During the holiday, specific “back to school” purchases of clothing, school supplies, and personal computers are exempt from the state sales tax and county discretionary sales surtaxes.

The bill provides the Department of Revenue (DOR) a nonrecurring General Revenue appropriation of \$225,000 in Fiscal Year 2017-2018 to administer the provisions of this act.

The Revenue Estimating Conference has not yet reviewed the fiscal impact of this bill.

II. Present Situation:

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property, admissions,¹ transient rentals,² commercial real estate rentals,³ and a limited number of services.⁴ Chapter 212, F.S., contains statutory provisions authorizing the levy and collection of Florida’s sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of taxable goods or services, and collected from the purchaser at the time of sale.⁵

¹ Section 212.04, F.S.

² Section 212.03, F.S.

³ Section 212.031, F.S.

⁴ Florida Department of Revenue, *Florida’s Sales and Use Tax: Who Must Pay Tax? Partial List of Taxable Business Activities*, available at: http://dor.myflorida.com/dor/taxes/sales_tax.html (last visited Mar. 27, 2017).

⁵ *Id.*

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes. The surtax applies to all transactions occurring in the county subject to the ch. 212, F.S., state tax imposed on sales, use, services, rental, admissions, and other transactions,⁶ and on communications services as defined in ch. 202, F.S.⁷

The “Florida Residents’ Tax Relief Act of 1998” established Florida’s first tax holiday, during which clothing purchases of \$50 or less were exempt from tax.⁸ In 1999, backpacks were added to the tax holiday;⁹ school supplies were added in 2001.¹⁰ In 2013, the Legislature exempted personal computers and related accessories that were purchased for personal use, up to \$750, from sales tax collection during the sales tax holiday.¹¹ Since its inception, the duration of similar “back to school” sales tax holidays varied from 3 to 10 days, as have the type and value of exempt items.

III. Effect of Proposed Changes:

The bill provides for a 10-day sales tax holiday, which begins August 4, 2017, and ends August 13, 2017. During the holiday, the following items that cost \$100 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Clothing, defined as an “article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs;”
- Footwear, which does not include skis, swim fins, roller blades, and skates;
- Wallets; and
- Bags, which include handbags, backpacks, fanny packs, and diaper bags, but exclude briefcases, suitcases and other garment bags.

The bill also exempts “school supplies” that cost \$15 or less per item.

Personal computers and related accessories that have a sales price of \$1,000 or less that are purchased for noncommercial home or personal use are also exempt. This exemption includes electronic book readers, tablets, laptops, monitors, input devices, and non-recreational software. Cell phones, furniture, and devices or software intended primarily for recreational use are not exempt.

The “back to school” sales tax holiday does not apply to the following sales:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27(2), F.S.

The bill authorizes a nonrecurring appropriation of \$225,000 from the General Revenue Fund to the DOR to implement this section.

⁶ The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S.

⁷ Section 212.054, F.S.

⁸ Ch. 341, Laws of Fla. (1998).

⁹ Ch. 229, Laws of Fla. (1999).

¹⁰ Ch. 148, Laws of Fla. (2001).

¹¹ Ch. 42, s. 42 Laws of Fla. (2013).

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

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenues.

Subsection (b) of Article VII, s. 18 of the Florida Constitution provides that, except upon approval by each house of the Legislature by two-thirds vote of its 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. However, these requirements do not apply to laws that have an insignificant fiscal impact, which for fiscal year 2017-2018, is approximately \$2 million or less.^{12,13,14}

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

The Revenue Estimating Conference has not yet reviewed the fiscal impact of this bill. There is no recurring fiscal impact because this bill provides a sales tax holiday during Fiscal Year 2017-2018 only.

B. Private Sector Impact:

The sales tax holiday may promote retail sales at businesses that qualify under this bill.

C. Government Sector Impact:

The bill provides the DOR a nonrecurring General Revenue appropriation of \$225,000 in Fiscal Year 2017-2018 to administer the provisions of the act. The Department estimates

¹² FLA. CONST. art. VII, s. 18(d).

¹³ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 28, 2017).

¹⁴ Based on the Demographic Estimating Conference's population adopted on Feb. 13, 2017. The conference packet can be found at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Mar. 28, 2017).

the cost of notifying approximately 600,000 businesses of the sales tax holiday by printing and mailing of a Tax Information Publication will be \$241,200.¹⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

Prior iterations of the “Back to School” sales tax holiday exempted “the first \$750” of a personal computer’s price; the language of this bill exempts only computers that have a sales price of \$1,000 or less. Therefore, fewer computers and related items will be subject to a sales tax holiday exemption than in previous years.

VIII. Statutes Affected:

This bill creates an unnumbered section of law.

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.

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

¹⁵ Department of Revenue, *Senate Bill 490 Agency Analysis* (Feb. 10, 2017) (on file with the Commerce and Tourism Committee).