

**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: CS/SB 1450

INTRODUCER: Commerce and Tourism Committee and Senator Steube

SUBJECT: Sales Tax Refund for Eligible Job Training Organizations

DATE: January 30, 2018

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Little	McKay	CM	Fav/CS
2.			ATD	
3.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1450 creates a sales tax refund for eligible job training organizations that provide job training and employment services to low-income persons, individuals with workplace disadvantages, or individuals with barriers to employment. Under the bill, an eligible job training organization is entitled to a refund of 10 percent of the sales tax the organization remitted to the DOR on its sales of donated goods during the previous state fiscal year. The total amount of sales tax refunds issued may not exceed \$2 million in any state fiscal year.

The Department of Economic Opportunity (DEO) is required to determine an applicant's eligibility for the sales tax refund, and must certify the eligibility of organizations that meet the specified requirements. After obtaining certification from the DEO, an eligible job training organization must apply to the Department of Revenue (DOR) each year a refund is sought.

The bill limits the use of a sales tax refund issued to an eligible job training organization to the following purposes:

- Growth in employment hours;
- Job training and employment services to low-income persons, as defined in s. 420.0004(11) F.S., individuals who have workplace disadvantages, or individuals with barriers to employment; or
- Job training and employment services for veterans.

An eligible job training organization that receives a refund must annually report eligibility information to the DEO, including how the previously issued refund was used. If the DEO determines an organization no longer qualifies for the refund, the DEO must immediately notify the DOR. The DOR is prohibited from issuing a refund after receiving such notification. The bill authorizes the DOR to audit any refund within 4 years of the date the refund was granted, and subjects the overpayment of a refund or a refund issued to an ineligible job training organization to repayment.

## II. Present Situation:

### Florida Sales and Use Tax

Florida levies a six percent state sales and use tax on the sale or rental of most tangible personal property, admissions, rentals of transient accommodations, rentals of commercial real estate, and a limited number of services.<sup>1</sup> 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.

In addition to the state sales and use tax, s. 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes.<sup>2</sup> A surtax applies to all transactions occurring in the county that are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by ch. 212, F.S., and on communications services as defined in ch. 202, F.S.<sup>3</sup>

Generally, sales tax is added to the price of taxable goods or services and the tax is collected from the purchaser at the time of sale. The Department of Revenue (DOR) oversees the collection of the tax levied by ch. 212, F.S., and is authorized to audit organizations in the state for the purpose of determining whether such taxes are properly collected, reported, and paid.<sup>4</sup>

### *Charitable Organizations*

Charitable organizations are eligible to receive tax-deductible contributions.<sup>5</sup> To qualify as a charitable organization under section 501(c)(3) of the Internal Revenue Code, an organization must be organized and operated exclusively for an exempt purpose,<sup>6</sup> none of its earnings may inure to any private shareholder or individual, and it cannot be an action organization.<sup>7</sup>

---

<sup>1</sup> See ch. 212, F.S.

<sup>2</sup> The tax rates, duration of the surtaxes, method of imposition, and proceed uses are individually specified in s. 212.055, F.S.

<sup>3</sup> Section 212.054, F.S.

<sup>4</sup> Section 212.13

<sup>5</sup> 26 U.S.C. 170

<sup>6</sup> Exempt purposes under section 501(c)(3) include: charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals. The term charitable is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency.

<sup>7</sup> IRS, *Exemption Requirements - 501(c)(3) Organizations*, available at <https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-section-501c3-organizations> (last visited Jan. 26 2018).

Additionally, organizations that qualify under section 501(c)(3) may be eligible for other tax benefits, such as state and federal sales, property, and income tax exemptions.<sup>8,9</sup>

### Florida's Workforce System Overview

The Department of Economic Opportunity (DEO),<sup>10</sup> CareerSource Florida, Inc. (CareerSource Florida),<sup>11</sup> and 24 local workforce development boards (LWDBs) act as partners in administering Florida's comprehensive system for the delivery of workforce strategies, services, and programs.

The DEO and CareerSource Florida deliver Florida's workforce development services through the LWDBs and nearly 100 one-stop career centers.<sup>12</sup> One-stop career service centers provide Floridians local access to available workforce services, including job placement, career counseling, and skills training.<sup>13</sup> Many businesses throughout the state participate in Florida's workforce system by providing job training and employment services to individuals with disabilities, individuals with workplace disadvantages, and individuals with barriers to employment.

### III. Effect of Proposed Changes:

The bill creates a sales tax refund for eligible job training organizations that provide job training and employment services<sup>14</sup> to low-income persons,<sup>15</sup> individuals with workplace disadvantages, or individuals with barriers to employment.

To become eligible, a job training organization must:

- Be exempt under s. 501(c)(3) of the Internal Revenue Code of 1986;

<sup>8</sup> See Internal Revenue Service, *Federal Tax Obligations of Non-Profit Corporations*, available at <https://www.irs.gov/pub/irs-pdf/n844.pdf> (last visited Jan. 26, 2018); See also Department of Revenue, *Nonprofit Organizations*, available at <http://floridarevenue.com/taxes/businesses/Pages/nonprofit.aspx> (last visited Jan. 26, 2018).

<sup>9</sup> Nonprofit organizations may qualify for exemption from some Florida taxes. Each tax is separate and distinct and has its own requirements. As a result, exemption from one tax does not necessarily exempt the organization from all taxes and not all Florida tax exemptions require the organization obtain a federal tax-exempt status.

<sup>10</sup> The DEO is responsible for the fiscal and administrative affairs of the workforce development system, including reporting financial and performance data to the United States Department of Labor and other federal entities. See s. 20.60, F.S. and s. 445.009(3)(c), F.S.

<sup>11</sup> CareerSource Florida is a not-for-profit corporation that assists the DEO with state-level policy, planning, performance evaluation, and oversight of the delivery of workforce services. CareerSource Florida also provides an annual report containing information regarding its operations, accomplishments, and audits. See s. 445.004, F.S.

<sup>12</sup> Florida Department of Economic Opportunity, *CareerSource Florida Center Directory*, <http://www.floridajobs.org/onestop/onestopdir/> (last visited Jan. 26, 2018).

<sup>13</sup> See s. 445.009, F.S.

<sup>14</sup> "Job training and employment services" is defined by the bill as "programs and services that improve workers' job readiness, assist them in gaining employment and adapting to the changing labor market, and help them achieve employment success through self-sufficiency."

<sup>15</sup> "Low-income persons" means one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater. Section 420.0004(11), F.S.

- Provide job training and employment services to low-income persons as defined in s. 420.0004, F.S., individuals who have workplace disadvantages, or individuals with barriers to employment;
- Be credited by the Commission on Accreditation of Rehabilitation Facilities; and
- Be certified by the DEO.

The bill also specifies that an eligible job training organization consisting of commonly owned and controlled entities is deemed to be a single organization entity.

An eligible job training organization is entitled to a refund equal to 10 percent of the sales tax remitted to the DOR during the prior state fiscal year on its sales of goods donated to the organization. The total amount of sales tax refunds issued to eligible job training organizations may not exceed \$2 million in any state fiscal year granted on a first-come, first-serve basis. An eligible job training organization that is issued a refund must reserve the refund to be exclusively used for any of the following purposes:

- Growth in employment hours;<sup>16</sup>
- Job training and employment services to low-income persons as defined in s. 420.0004(11) F.S., individuals who have workplace disadvantages, or individuals with barriers to employment; and
- Job training and employment services for veterans.

Under the bill, an organization seeking a refund must submit an initial application to the DEO by July 15. The application must establish that the organization meets the eligibility requirements and that the refund will be used exclusively for the purposes authorized by the bill. The DEO is required to verify the application and notify the organization of its determination within 15 days of receiving the application. The bill authorizes the DEO to adopt rules necessary to administer the sales tax refund, including rules for the approval and disapproval of applications by organizations.

For approved applications, the DEO must also send the eligible job training organization a notice indicating that the organization is certified to receive the sales tax refund created by the bill. This notice must be in writing, or e-mail if agreed to by organization. Upon approval, the DEO must transfer a copy of the decision to the DOR. The DEO's issuance of a certification remains in effect as long as the eligible job training organization remains in compliance with the requirements.

An eligible job training organization that has received certification by the DEO must then apply to the DOR between August 1 and August 31 of each year it seeks a refund. The first application for a refund submitted to the DOR must also include a copy of the DEO certification.

By July 15 of each year, an eligible job training organization is required to provide a report to the DEO describing the use of the refund previously issued. The report must include the following:

- The amount of the refund used to create growth in employment hours;
- The total annual growth in employment hours;

---

<sup>16</sup> "Growth in employment hours" is defined by the bill as "the annual growth in hours worked by employees in the current year compared with the number of hours worked by employees in the previous year."

- The amount of the refund used for job training and employment services;
- The number of individuals who participated in job training and employment services at the eligible job training organization for the fiscal year in which the requested funds were remitted to the department; and
- A statement declaring that the organization continues to meet the necessary requirements to remain eligible for the sales tax refund.

If the DEO determines that a job training organization no longer qualifies for the refund, the DEO must notify the DOR immediately. The DOR is prohibited from issuing a refund after receiving such notification. The bill also provides that, notwithstanding s. 95.091(3)(a)6.b., F.S., the DOR has the authority to audit any refund within 4 years after the date the refund was granted. The overpayment of a refund, or a refund issued to an ineligible job training organization, is subject to repayment and interest at the rate calculated pursuant to s. 213.235, F.S.

The bill takes effect on July 1, 2018.

#### **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:

The bill creates a sales tax exemption for eligible job training organizations equal to 10 percent of the sales tax remitted to the DOR on its sales of goods donated to the organization during the prior state fiscal year.

B. Private Sector Impact:

The bill will have a positive impact on eligible job training organizations that receive a sales tax refund.

C. Government Sector Impact:

The Revenue Estimating Conference has not yet estimated the fiscal impact of the bill. However, the issuance of the sales tax refund will likely have a negative impact on the state's revenues in an amount up to \$2 million each year.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The sales tax refund is equal to 10 percent of the sales tax remitted on sales of donated goods. However, the criteria set forth in the application for eligibility does not require information relating to the applicant's sales of donated goods.

Lines 60-62 provide that "[t]he total amount of refunds issued under this section may not exceed \$2 million in any state fiscal year granted on a first-come, first-served basis." This language may be confusing to applicants trying to determine when and how the first-come, first-served standard will be applied to the sales tax refund. The language could be amended to clarify whether the standard applies to applications submitted to the DEO or applications submitted to the DOR.

**VIII. Statutes Affected:**

This bill creates section 212.099 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Commerce and Tourism on January 29, 2018:**

The bill is amended to:

- Make references to "eligible job training organizations" rather than "eligible businesses;"
- Remove "capital costs" from the uses of the sales tax refund authorized by the bill; and
- Clarify that the DOR may audit, rather than examine, any sales tax refund granted to an eligible job training organization within 4 years of issuance.

- B. **Amendments:**

None.