

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 830

INTRODUCER: Senator Hooper

SUBJECT: Sales Tax

DATE: November 29, 2021 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Pre-meeting
2.			FT	
3.			AP	

I. Summary:

SB 830 decreases the applicable sales tax on the occasional or isolated sale of a mobile home by calculating the sales tax on 50 percent of the sales price, instead of 100 percent. Additionally, the bill exempts from any sales tax those mobile homes that are purchased in an occasional or isolated sale by an individual who affirms that he or she will obtain an RP (real property) decal, evincing the purchaser's intent to permanently affix the mobile home to land and to pay annual county tax collector assessments on the mobile home.

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

The bill takes effect upon becoming law.

II. Present Situation:

Florida Sales and Use Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,¹ admissions,² transient rentals,³ and a limited number of services. Chapter 212, F.S., contains 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 the taxable good or service and collected from the purchaser at the time of sale.⁴

¹ Section 212.05(1)(a)1.a., F.S.

² Section 212.04(1)(b), F.S.

³ Section 212.03(1)(a), F.S.

⁴ Section 212.07(2), F.S.

Counties are authorized to impose local discretionary sales surtaxes in addition to the state sales tax.⁵ A surtax applies to “all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202.”⁶ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold or delivered. Discretionary sales surtax rates currently levied vary by county in a range of 0.5 to 2.5 percent.⁷

Generally, tangible personal property that is sold in an isolated or occasional sale is exempt from the state sales tax.⁸ A seller makes an isolated or occasional sale if the sale or series of sales occurs no more than twice during any 12-month period.⁹ A seller is required to register as a dealer if he or she completes more than three sales of the same type of item during a 12-month period. The sale of mobile homes, aircrafts, boats, and motor vehicles are expressly excluded from the isolated or occasional state sales and use tax exemption.¹⁰

Florida Taxation of Mobile Homes

Mobile homes, aircrafts, boats, and certain motor vehicles are classified as tangible personal property¹¹ and are subject to a 6 percent sales tax at each sale, including an occasional or isolated sale.¹² In addition, a Florida mobile home is taxed annually in one of the following three ways:¹³

- Assessed and taxed as real property by the county property appraiser;
- Subjected to an annual license tax by the county tax collector’s office; or
- Assessed and taxed as tangible personal property by the county property appraiser.

If the mobile home’s owner permanently affixes the mobile home to land that he or she owns, then the mobile home may be considered real property.¹⁴ The local property appraiser assesses and then lists the mobile home as real property based on his or her findings. If the mobile home is real property, the owner must make a one-time purchase of a \$3 RP decal from his or her local county tax collector’s office.¹⁵ The RP decal subjects the mobile home to annual assessment and taxation by the county property appraiser. If the mobile home continues to be affixed to the land,

⁵ Section 212.055, F.S.

⁶ Section 212.054(2)(a), F.S.

⁷ Office of Economic and Demographic Research, *Florida Tax Handbook*, 227-228 (2021), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2021.pdf> (last visited Nov. 29, 2021).

⁸ Fla. Admin. Code R. 12A01.037(1). See also, s. 212.02(2), defining “business” as activity engaged in by a person with the object of private or public gain, benefit, or advantage.

⁹ Fla. Admin. Code R. 12A-1.037(3)(b).

¹⁰ See, s. 212.05(1)(a)1.b., and Fla. Admin. Code R. 12A-1.037(2)(a)1.

¹¹ Section 212.02(19), F.S.

¹² Section 212.05(1)(a)1.b., F.S.

¹³ See generally, Florida Department of Revenue, Form 800047, *Taxation of Mobile Homes in Florida* (rev. Dec. 2017), available at https://floridarevenue.com/Forms_library/current/gt800047.pdf (last visited Nov. 29, 2021).

¹⁴ Section 320.015, F.S.

¹⁵ While the RP decal is issued by local county property appraisers, it is provided by the Department of Highway Safety and Motor Vehicles to the county tax collectors. The \$3 fee is distributed as follows: \$2.50 to the tax collector, .25 cents to the property appraiser, and 25 cents to the DHSMV. Section 320.0815(2), F.S. See, e.g., Florida Department of Revenue, *Declaration of Mobile Home as Real Property: Form DR-402* (Aug. 1995), <https://floridarevenue.com/property/Documents/dr402.pdf> (last visited Nov. 29, 2021).

it is considered real property, and therefore taxed as such (exempt from subsequent sales and use tax) at subsequent sales.¹⁶

A mobile home that is affixed to land that is owned by someone other than the mobile home's owner is subject to an annual license tax, which is levied by the Department of Highway Safety and Motor Vehicles, and can be purchased at the local county tax collector's office.¹⁷ This license tax varies from \$20 to \$80, based on the mobile home's length.¹⁸

Any mobile home that qualifies for, but fails to pay, the license tax, is assessed and taxed as tangible personal property by the county property appraiser.¹⁹ The mobile home is then placed on the tangible personal property assessment roll and is taxed as such for the year. If the owner purchases an annual license tax for the mobile home before January 1 of the next year, then the mobile home will be removed from the tangible personal property assessment roll, and would not be subject to further tangible personal property taxation.

III. Effect of Proposed Changes:

The bill revises the method in which tax is calculated and levied for the occasional or isolated sale of mobile homes. First, it reduces from 100 percent to 50 percent the total bases cost on which the 6 percent state sales and use tax is calculated in an occasional or isolated sale. Second, the bill exempts the occasional or isolated sale of a mobile home from any state sales and use tax if the purchaser signs an affidavit which states that he or she intends to seek an "RP" series sticker from their county tax collector pursuant to s. 320.0815(2), F.S. The "RP" sticker reclassifies the mobile home as real property instead of tangible personal property, and subjects the mobile home to an annual real property assessment by the county property appraiser in the same manner as a permanent home that was built on-site.

A mobile home dealer will not likely qualify for this sales and use tax reduction, assuming that he or she makes more than two mobile home sales in a 12-month period. The sales and use tax reduction and exemption will likely apply to sales between two individuals who are not engaged in the usual business of selling a mobile home.

The bill takes effect upon becoming law.

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, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

¹⁶ Florida Department of Revenue, *SB 830 Agency Analysis* (Nov. 16, 2021) (on file with the Senate Committee on Commerce and Tourism).

¹⁷ Sections 320.015 and 320.0815(2), F.S. *See also*, Florida Department of Revenue, *supra* note 13.

¹⁸ Section 320.08(11), F.S.

¹⁹ Florida Department of Revenue, *supra* note 13.

Subsection (b) of s. 18, Art. VII of the Florida 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. However, the mandates requirements do not apply to laws that have an insignificant impact, which is \$2.2 million or less for Fiscal Year 2022-2023.

The mandates provision of Art. VII, Section 18, of the Florida Constitution may apply, however, the Revenue Estimating Conference has not yet determined a fiscal impact of the bill.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Not applicable.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The purchaser of a mobile home from a non-dealer individual would pay reduced state sales and use tax, which would be calculated on 50 percent of the sales price instead of the full sales price.

C. Government Sector Impact:

The Revenue Estimating Conference has not yet determined a fiscal impact of the bill, however the state will likely realize a loss in sales and use tax dollars on the sale of mobile homes.

The Department of Revenue may be required to undergo rulemaking to update Rule 12A-1.007 of the Florida Administrative Code.

The Department of Revenue may incur expenses related to creating and issuing a Taxpayer Information Publication (TIP) to alert eligible taxpayers about the tax reduction and exemption.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill exempts the purchase of a mobile home in an occasional or isolated sale from any state sales and use tax if the purchaser signs an affidavit stating that he or she intends to seek an “RP” sticker that would subject the mobile home to an annual assessment by the county tax collector. There is no verification process included in the bill, which may allow certain mobile home purchasers to evade paying either the state sales and use tax or the county’s property tax.

This bill takes effect upon becoming law. The Department of Revenue may require additional time to generate notices about the change in taxes applicable to mobile home sales.

VIII. Statutes Affected:

This bill substantially amends s. 212.05 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.