

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB WMC 17-06 Taxation
SPONSOR(S): Ways & Means Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ways & Means Committee	16 Y, 0 N	Aldridge	Langston

SUMMARY ANALYSIS

Proposed committee bill 17-06 provides for a wide range of tax reductions and modifications designed to directly impact both households and businesses, and to improve tax administration.

The bill contains several provisions related to sales tax. The bill:

- Reduces the state sales tax rate on rental of commercial real estate (business rent tax) from 6% to 4.5% for two years, beginning January 1, 2018, then maintains a permanent tax rate reduction from 6% to 5.5% beginning January 1, 2020.
- Includes new, extended, or expanded sales tax exemptions for:
 - Diapers and incontinence products;
 - Products used to control menstrual flow;
 - Certain animal health products and other agricultural related items;
 - Certain resales of admissions;
 - Certain sales made between certain financial institutions and related parties; and
 - Sales of college textbooks and instructional materials for one year.
- The bill includes the following sales tax holidays:
 - A ten-day “back-to-school” holiday for clothing, footwear, school supplies, and computers;
 - A nine-day “disaster preparedness” holiday for certain items related to disaster preparedness; and
 - An annual one-day “veterans” holiday for purchases of clothing and footwear.

For property tax purposes, the bill provides property tax relief for certain property used to provide affordable housing, amends the definition of inventory to include certain construction and agricultural equipment, and clarifies the documentation required to obtain an exemption for certain nonprofit homes for the aged.

For corporate income tax, the bill:

- Increases the annual tax credits available for voluntary brownfields clean-up from \$5 million per year to \$10 million per year and provides an additional \$15 million for FY 2017-18 and increases the amount available for research and development tax credits in calendar year 2018 from \$9 million to \$20 million.
- Extends the Community Contribution Tax Credit program by one year, through FY 2018-19, while maintaining the current funding level of \$24.9 million in tax credits (also may be taken against sales tax and insurance premiums tax).
- Changes filing dates for certain income tax returns and certain estimated tax payments.

Further changes in the bill include: various changes to accomplish general tax administration improvements; elimination of several tax registration fees; exempting highway safety taxes and fees for certain marine boat trailers owned by ch. 501(c)(3) organizations; amending the definition of “beer” and “malt beverage”; and the repeal of certain distributions from the cigarette tax.

The total impact of the bill in fiscal year 2017-2018 is -\$296.5 million (-\$276.0 million recurring). See FISCAL COMMENTS section for details.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb06a.WMC

DATE: 4/5/2017

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Sales Tax

Florida's sales and use tax is a six percent levy on retail sales of a wide array of tangible personal property, admissions, transient lodgings, and commercial real estate rentals, unless expressly exempted. In addition, Florida authorizes several local option sales taxes that are levied at the county level on transactions that are subject to the state sales tax. Generally, the sales tax is added to the price of a taxable good and collected from the purchaser at the time of sale. Sales tax represents the majority of Florida's general revenue stream (78.5 percent for FY 2016-17)¹ and is administered by the Department of Revenue (DOR) under chapter 212, F.S.

Sales Tax on Rental of Commercial Real Estate (Business Rent Tax)

Current Situation

Since 1969, Florida has imposed a sales tax on the total rent charged under a commercial lease of real property.² Sales tax is due at the rate of six percent on the total rent paid for the right to use or occupy commercial real property and county sales surtax can also be levied on total rent.³ If the tenant makes payments such as mortgage, ad valorem taxes, or insurance on behalf of the property owner, such payments are also classified as rent and are subject to the tax.

Commercial real property includes land, buildings, office or retail space, convention or meeting rooms, airport tie-downs, and parking and docking spaces. It may also involve the granting of a license to use real property for placement of vending, amusement, or newspaper machines. However, there are numerous commercial rentals that are not subject to sales tax, including:

- Rentals of real property assessed as agricultural;
- Rentals to nonprofit organizations that hold a current Florida consumer's certificate of exemption;
- Rentals to federal, state, county, or city government agencies;
- Properties used exclusively as dwelling units; and
- Public streets or roads used for transportation purposes.

Florida is the only state to charge sales tax on commercial rentals of real property. The Legislature's Office of Economic and Demographic Research reviewed and issued a report on the business rent tax in 2014.⁴

Proposed Changes

The bill reduces the state sales tax rate on rental of commercial real estate (business rent tax) from 6% to 4.5% for two years, beginning January 1, 2018, then maintains a permanent tax rate reduction from 6% to 5.5% beginning January 1, 2020.

Sales Tax on Admissions

Current Situation

¹ FLORIDA REVENUE ESTIMATING CONFERENCE, 2017 FLORIDA TAX HANDBOOK (2017).

² Ch. 1969-222, Laws of Fla.

³ s. 212.031, F.S., and Rule 12A-1.070, F.A.C.

⁴ Office of Economic and Demographic Research, Economic Impact: Sales Tax on the Rental of Real Property (Nov. 15, 2014).

Section 212.04, F.S., governs the state sales tax on admissions. Sales tax is levied at the rate of six percent of sales price or the actual value received from admissions. Admissions are defined⁵ as the net sum of money after deduction of any federal taxes for admitting a person or vehicle or persons to any:

- Place of amusement, sport, or recreation including, but not limited to, theaters, shows, exhibitions, games, races;
- Place where charge is made by way of sale of tickets, gate charges, and similar fees or charges;
- Receipts of anything of value measured on an admission or entrance or length of stay or seat box accommodations in any place where there is any exhibition, amusement, sport, or recreation; and
- All dues and fees paid to private clubs and membership clubs providing recreational or physical fitness facilities, including, but not limited to, golf, tennis, swimming, yachting, boating, athletic, exercise, and fitness facilities.

Several exceptions and exemptions exist,⁶ such as:

- Memberships for physical fitness facilities owned or operated by any hospital;
- Admissions to athletic or other events sponsored by a school;
- Fees or charges imposed by certain not-for-profit organizations;
- Events sponsored by a governmental entity, nonprofit sports authority, or nonprofit sports commission under certain circumstances;
- Admissions to certain professional and collegiate sports all-star and championship games;
- Entry fees for freshwater fishing tournaments;
- Participation or entry fees charged to participants in a game, race, or other sport or recreational event if spectators are charged a taxable admission to such event;
- Admissions to any postseason collegiate football game sanctioned by the National Collegiate Athletic Association.

Generally, sales of tangible personal property made for resale are exempt from sales tax.⁷ This treatment does not apply to sales of taxable admissions.⁸

Proposed Changes

The bill provides an exemption for certain resales of admissions to a purchaser that is eligible for an exemption from sales tax. The bill allows a person who has purchased a taxable admission and resells that admission to an entity with a valid exemption certificate from the DOR to seek a refund or credit of the tax paid on its initial purchase of the admission from the vendor of the initial sale. The vendor may then seek a refund or credit of the tax from the DOR.

College or University Textbooks Sales Tax Exemption

Current Situation

In 2015, the Legislature created a one-year sales tax exemption⁹ for textbooks and printed and digital materials required or recommended for a course offered by a public postsecondary educational institution or a nonpublic postsecondary educational institution that is eligible to participate in the tuition assistance programs.

⁵ s. 212.02(1), F.S.

⁶ See s. 212.04(2)(a), F.S.

⁷ See the definition of “retail sale” in s. 212.02(14), F.S. Also see s. 212.07, F.S.

⁸ s. 212.04(1)(c), F.S.

⁹ s. 29, ch. 2015-221, Laws of Fla.

To obtain the tax exemption, a student must provide either a physical or an electronic copy of the following to the vendor:

- His or her student identification number; and
- Either an applicable course syllabus or list of required and recommended textbooks and instructional materials.

The vendor must maintain proper documentation, as prescribed by rule, to identify either complete transactions or the portion of a transaction which involves the sale of tax-exempted textbooks.

Proposed Changes

The bill exempts the sale of textbooks and instructional materials from July 1, 2017 through June 30, 2018.

Diapers and Incontinence Products Sales Tax Exemption

Current Situation

Certain medical products and supplies are exempt from sales and use tax, including supplies or medicine dispensed according to a prescription and other non-prescription common household remedies used in the cure, mitigation, treatment, or prevention of illness or disease.¹⁰

Alcohol wipes, bandages, and gauze are examples of common household remedies. Cosmetics¹¹ and toilet articles¹² are specifically excluded from the common household remedy exemption, notwithstanding the presence of medicinal ingredients therein. The Department of Business and Professional Regulation (DBPR) is responsible for prescribing and approving a list of common household remedies that qualify for the exemption, which is certified by the DOR from time to time and included in the rules promulgated by the DOR.¹³ Additional items can be added to the list at the discretion of the DBPR or through a process involving a Technical Assistance Advisory Committee.¹⁴

Certain products relating to infants are also exempt, including baby food, formulas, and teething lotion.¹⁵ However, diapers are not currently exempt from sales and use tax in Florida.¹⁶

Proposed Changes

Effective January 1, 2018, the bill creates a sales tax exemption for the following items:

- Diapers;
- Incontinence undergarments;
- Incontinence pads; and
- Incontinence liners.

¹⁰ See s. 212.08(2)(a), F.S.

¹¹ Section 212.08(2)(b)2., F.S., defines “cosmetics” as articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance and also means articles intended for use as a compound of any such articles, including, but not limited to, cold creams, suntan lotions, makeup, and body lotions.

¹² Section 212.08(2)(b)3., F.S., defines “toilet articles” as any article advertised or held out for sale for grooming purposes and those articles that are customarily used for grooming purposes, regardless of the name by which they may be known, including, but not limited to, soap, toothpaste, hair spray, shaving products, colognes, perfumes, shampoo, deodorant, and mouthwash.

¹³ Rule 12A-1.020, F.A.C.; Form DR-46NT, Nontaxable Medical Items and General Grocery List (R. 01/16), available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-06368> (last visited February 8, 2017).

¹⁴ s. 212.08(14), F.S.

¹⁵ Rule 12A-1.020, F.A.C.; Form DR-46NT, Nontaxable Medical Items and General Grocery List (R. 01/16), available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-06368> (last visited February 8, 2017).

¹⁶ However, diapers for children and adults, diaper bags, and diaper inserts have been temporarily exempt from sales tax during sales tax holidays. See e.g. Rule 12AER16-01, F.A.C.

Products Used to Control Menstrual Flow Sales Tax Exemption

Current Situation

Products used to absorb menstrual flow are currently subject to state sales and use tax. These products include tampons, sanitary napkins, panty liners, and menstrual cups.

From 1977 through 1986, the sales of products used to absorb menstrual flow in Florida were specifically exempt from sales and use tax.¹⁷ However, the Legislature repealed various sales tax exemptions in 1986, including products used to absorb menstrual flow.¹⁸ The 1986 legislation also created a commission to review the changes made by ch. 1986-166, L.O.F., and to recommend prior to the subsequent legislative session whether to allow the repeal to remain effective. The commission's findings did not specifically address the repeal of the exemption for products used to absorb menstrual flow, but it recommended that all sales tax exemptions not specifically recommended in the report should be repealed.¹⁹

In 2016, a class action lawsuit was filed in Leon County, Florida to challenge the state sales tax levied on the sale of products used to absorb menstrual flow.²⁰ The plaintiffs argue that such products are necessary for women's health and should be exempt as common household remedies. The plaintiffs also argue that the taxation of products used to absorb menstrual flow violates the Equal Protection Clauses of both the Florida and United States Constitutions. The plaintiffs seek declaratory and injunctive relief, along with a refund of taxes. The case is currently pending in circuit court.

Of the 45 states²¹ that currently levy sales and use tax, eight states do not impose the tax on the sale of products used to absorb menstrual flow. Illinois,²² Maryland,²³ Massachusetts,²⁴ Pennsylvania,²⁵ Minnesota,²⁶ New Jersey,²⁷ Connecticut,²⁸ and New York²⁹ have passed legislation to specifically exempt these products from sales and use tax.

Proposed Changes

Effective January 1, 2018, the bill creates a sales tax exemption for products used to absorb menstrual flow.

Agriculture-Related Sales Tax Exemptions

Current Situation

Current law exempts specified items for agricultural use from sales and use tax.³⁰ For example, disinfectants, fertilizers, insecticides, pesticides, herbicides, fungicides, and weed killers used for

¹⁷ Ch. 77-193, Laws of Fla.

¹⁸ Ch. 86-166, Laws of Fla.

¹⁹ Sales Tax Exemption Study Commission, *Report and Recommendations of the Sales Tax Exemption Study Commission* (April, 1987).

²⁰ *Wendell v. Florida Dep't. of Rev.*, No. 2016 CA 001526 (Fla. Leon Cty. Ct. July 7, 2016).

²¹ Alaska, Delaware, Montana, New Hampshire, and Oregon do not impose state sales tax.

²² 35 Ill. Comp. Stat. 110/3-5 (2016).

²³ Md. Tax-Gen. Code Ann., §11-211 (2016).

²⁴ Mass. Gen. Laws ch. 64H, § 6 (2016).

²⁵ 72 Pa. Cons. Stat. § 7204 (2016).

²⁶ Minn. Stat. §297A.67 (2016).

²⁷ N.J. Stat. Ann. § 54:32B-8.1 (2016).

²⁸ Conn. Gen. Stat. § 12-412 (2016).

²⁹ N.Y. Tax Law §1115 (2016).

³⁰ s. 212.08(5)(a), F.S.

application on crops or groves, including commercial nurseries and home vegetable gardens, used in dairy barns or on poultry farms for the purpose of protecting poultry or livestock, or used directly on poultry or livestock are exempt. To obtain the exemption, the purchaser must sign a certificate stating that the item to be exempted is for the exclusive use designated in statute.³¹

In addition, current law exempts the purchase by a veterinarian of commonly recognized substances possessing curative or remedial properties which are ordered and dispensed as treatment for a diagnosed health disorder by or on the prescription of a duly licensed veterinarian, and which are applied to or consumed by animals for alleviation of pain or the cure or prevention of sickness, disease, or suffering are exempt.³² However, the exemption is not allowed if these health products are not purchased by a veterinarian. It is common in the livestock and poultry industry for such health products to be purchased from farm supply stores or directly from the manufacturer.

Further, current law exempts from sales tax the portion of the sales price below \$20,000 for a trailer that weighs 12,000 pounds or less that is purchased by a farmer. The trailer must be used exclusively in agricultural production or to transport farm products from the farm to the place where the farmer transfers ownership of the product or products.³³

Proposed Changes

Effective July 1, 2017, the bill adds the following to the list of items in agricultural use that are exempt from the sales and use tax:

- Hog wire and nylon mesh netting used on a farm for protection from predatory or destructive animals;
- Barbed wire fencing, including gates and materials used to construct or repair such fencing, used on a beef or dairy cattle farm;
- Compressed or liquefied oxygen used in aquaculture production;
- Aquaculture health products; and
- Animal health products which are applied to, administered to, or consumed by livestock or poultry for alleviation of pain or the cure or prevention of sickness, disease, or suffering, including:
 - Antiseptics,
 - Absorbent cotton,
 - Gauze for bandages,
 - Lotions,
 - Vaccines,
 - Vitamins, and
 - Worm remedies.

For purposes of the exemptions for animal health products and aquaculture health products, the bill provides that this exemption is remedial in nature and applies retroactively, but does not create a right to a refund or credit of any tax paid before the effective date of the bill.

The bill also increases from \$20,000 to \$25,000 the portion of the sales price that tax may not be imposed on for certain farm trailers purchased by a farmer. The trailer must be used exclusively in agricultural production or to transport farm products from the farm to the place where the farmer transfers ownership of the product or products.

Sales Tax Holidays

Current Situation

³¹ s. 212.08(5)(a), F.S.

³² s. 212.08(2)(h), F.S.

³³ s. 212.08(3)(b), F.S.

Since 1998, the Legislature has enacted 20 temporary periods (commonly called “sales tax holidays”) during which certain household items, household appliances, clothing, footwear, books, and/or school supply items were exempted from the state sales tax and county discretionary sales surtaxes.

Back-to-School Holidays--Florida has enacted a “back to school” sales tax holiday 15 times since 1998. The length of the exemption periods has varied from three to 10 days. The type and value of exempt items has also varied. Clothing and footwear have always been exempted at various thresholds, most recently \$60. Books valued at \$50 or less were exempted in six periods. School supplies have been included starting in 2001, with the value threshold increasing from \$10 to \$15. In 2013, personal computers and related accessories purchased for noncommercial home or personal use with a sales price of \$750 or less were exempted. In 2014, the first \$750 of the sales price of personal computers and related accessories purchased for noncommercial home or personal use were exempted. The following table describes the history of back-to-school sales tax holidays in Florida:

Dates	Length	TAX EXEMPTION THRESHOLDS				
		Clothing/ Footwear	Wallets/ Bags	Books	Computers	School Supplies
August 15-21, 1998	7 days	\$50 or less	N/A	N/A	N/A	N/A
July 31-August 8, 1999	9 days	\$100 or less	\$100 or less	N/A	N/A	N/A
July 29-August 6, 2000	9 days	\$100 or less	\$100 or less	N/A	N/A	N/A
July 28-August 5, 2001	9 days	\$50 or less	\$50 or less	N/A	N/A	\$10 or less
July 24-August 1, 2004	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
July 23-31, 2005	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
July 22-30, 2006	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 4-13, 2007	10 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 13-15, 2010	3 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 12-14, 2011	3 days	\$75 or less	\$75 or less	N/A	N/A	\$15 or less
August 3-5, 2012	3 days	\$75 or less	\$75 or less	N/A	N/A	\$15 or less
August 2-4, 2013	3 days	\$75 or less	\$75 or less	N/A	\$750 or less	\$15 or less
August 1-3, 2014	3 days	\$100 or less	\$100 or less	N/A	First \$750 of the sales price	\$15 or less
August 7 - 16, 2015	10 days	\$100 or less	\$100 or less	N/A	First \$750 of the sales price	\$15 or less
August 5 - 7, 2016	3 days	\$60 or less	\$60 or less	N/A	N/A	\$15 or less

Hurricanes and Disasters in Florida--In 2016, the Florida Office of Insurance Regulation estimated a gross probable loss of over \$1 billion due to hurricanes Hermine and Mathew in 2016,³⁴ \$25 billion due to four hurricanes in 2004, and \$10.8 billion due to four in 2005.³⁵ Tropical Storm Fay was estimated to have resulted in \$242 million of damage in 2008.³⁶ The Florida Division of Emergency Management

³⁴ Florida Office of Insurance Regulation, Florida Office of Insurance Regulation Catastrophe Report, <http://www.flor.com/Sections/PandC/ProductReview/CatastropheReporting.aspx> (last visited March 17, 2017).

³⁵ Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, <http://www.flor.com/siteDocuments/HurricaneSummary20042005.pdf> (last visited March 17, 2017).

³⁶ Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, <http://www.flor.com/siteDocuments/HurricaneSummary2008.pdf> (last visited March 17, 2017)

(DEM) recommends having a disaster supply kit with items such as a battery operated radio, flashlight, batteries, and first-aid kit.³⁷

Veterans in Florida--Florida is home to almost 1.6 million veterans.³⁸ Florida also has 20 major military installations, with eight having a Military Exchange on base.³⁹ Military Exchanges sell consumer goods and services tax free. However, not every veteran can shop at Exchanges. Generally, only retirees and 100 percent disabled veterans have Exchange privileges. Recently, the Department of Defense announced a policy change in January, 2017, that will extend limited online military exchange shopping privileges to all honorably discharged veterans starting on November 11, 2017.⁴⁰

Proposed Changes

The bill establishes a temporary disaster preparedness sales tax holiday in fiscal year (FY) 2016-17, a temporary back-to-school sales tax holiday in FY 2017-18, and an annual sales tax holiday for clothing purchased by veterans beginning in FY 2017-18.

Back-to-School Holiday--The bill provides for a ten-day sales tax holiday from August 4, 2017, through 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,” but excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs);
- Footwear (excluding skis, swim fins, roller blades, and skates);
- Wallets; and
- Bags (including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags).

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

Also exempt will be the first \$1,000 of the sales price for personal computers and related accessories purchased for noncommercial home or personal use. This would include tablets, laptops, monitors, input devices, and non-recreational software. Cell phones, furniture and devices or software intended primarily for recreational use are not exempted.

Disaster Preparedness Sales Tax Holiday-- The bill provides for a nine day sales tax holiday from May 27, 2017, through June 4, 2017, for specified items related to disaster preparedness. During the holiday, the following items are exempt from the state sales tax and county discretionary sales surtaxes:

- A portable self-powered light source selling for \$20 or less;
- A portable self-powered radio, two-way radio, or weather band radio selling for \$50 or less;
- A tarpaulin or other flexible waterproof sheeting selling for \$50 or less;
- A self-contained first-aid kit selling for \$30 or less;
- A ground anchor system or tie-down kit selling for \$50 or less;
- A gas or diesel fuel tank selling for \$25 or less;
- A package of AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less;
- A nonelectric food storage cooler selling for \$30 or less;

³⁷ Florida Division of Emergency Management, *Disaster Supply Kit*, <http://www.floridadisaster.org/supplykit.htm> (last visited Jan. 22, 2014).

³⁸ https://www.va.gov/vetdata/docs/SpecialReports/State_Summaries_Florida.pdf

³⁹ Military Exchange store locator, available at: <https://www.shopmyexchange.com/exchange-stores> (last visited January 30, 2017).

⁴⁰ U.S. Department of Defense press release, *Department of Defense Extends Online Military Exchange Shopping Privileges to Veterans*, available at <https://www.defense.gov/News/News-Releases/News-Release-View/Article/1049503/departement-of-defense-extends-online-military-exchange-shopping-privileges-to-v> (last visited January 30, 2017).

- A portable generator that is used to provide light or communications or preserve food in the event of a power outage selling for \$750 or less; and
- Reusable ice selling for \$10 or less.

Veterans' Sales Tax Holiday-- The bill provides an annual one-day sales tax holiday on November 11 of each year, beginning in FY 2017-18. During the holiday, the following items that cost \$60 or less are exempt from the state sales tax and county discretionary sales surtaxes when sold to a veteran:

- Clothing (defined as an "article of wearing apparel intended to be worn on or about the human body," but excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs); and
- Footwear (excluding skis, swim fins, roller blades, and skates).

The bill defines a veteran as any person who served in the active military, naval, or air service and who was honorably discharged or who later received an upgraded honorable discharge. To be eligible for the sales tax holiday, a veteran must show proof of military status at the time he or she purchases the eligible items by presenting a DD Form 2, DD Form 2765, DD Form 214, veteran identification card, veteran health identification card, a valid driver license with the "V" or word "veteran" designation on it, or any other proof of veteran status issued by the Department of Highway Safety and Motor Vehicles.

The sales tax holidays in the bill do 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 allows the "back to school" and "veterans'" sales tax holidays to apply at the option of the dealer if less than five percent of the dealer's gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under the holiday. If a qualifying dealer chooses not to participate in the tax holiday, by November 1 each year for the veterans' holiday, and by August 1, 2017 for the back to school tax holiday, the dealer must notify the DOR in writing of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business. The bill authorizes the DOR to adopt emergency rules to implement the provisions of each holiday.

Sales Tax on Certain Related Party Sales

Current Situation

Generally speaking, there is no exemption for sales of taxable tangible personal property or services from a dealer to a related party.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010⁴¹ (Dodd-Frank) requires that certain large banks and insurers ("systemically important financial institutions")(hereinafter referred to as financial institutions) periodically submit recovery & resolution plans to the Federal Reserve and the Federal Deposit Insurance Corporation.⁴² Each plan must describe the financial institution's strategy for recovery from a financial crisis, as well as its rapid and orderly resolution in the event of material financial distress or failure of the financial institution.

Under most plans, the financial institution is required to create a Shared Services Entity (SSE) to provide all of the support services that are currently provided by employees of the financial institution.⁴³ The purpose of an SSE is to separate and insulate these support services, including customer support functions, from the investment and asset management side of the financial institution, thus ensuring that these support services will continue to be provided despite major losses elsewhere in the business.

⁴¹ Pub.L. 111-203, H.R. 4173.

⁴² 12 U.S.C. s. 5365(d)(1).

⁴³ U.S.C. s. 5365(d)(5).

Because SSE's will be separate legal entities from the affected financial institutions, sales of taxable tangible personal property or services by SSEs to affected financial institutions will be subject to sales tax in Florida.

Proposed Changes

The bill provides an exemption for sales of tangible personal property or services otherwise taxable under ch. 212, F.S. by a dealer to a related party where the purchaser can show that:

- The vendor and the purchaser are either:
 - Referenced as either a "covered company," as described in 12 C.F.R. s. 243.2(f), or a "material entity," as described in 12 C.F.R. s. 243.2(l), in a resolution plan that has been submitted to an agency of the United States for the purpose of satisfying the Dodd Frank Act or any successor law, or
 - Separate legal entities pursuant to a divestiture directed pursuant to the Dodd Frank Act or any successor law; and
- The sale would not have occurred between such related entities were it not for such resolution plan or divestiture;
- The services sold by the vendor to the purchaser are performed by an employee of the vendor, or by an independent contractor hired by the vendor where the vendor paid the tax imposed under this chapter; and
- In acquiring such property or services, the vendor did not claim an exemption from the tax imposed under this chapter or by another state.

Corporate Income Tax

Florida levies corporate income tax on corporations of 5.5 percent for income earned in Florida.⁴⁴ The calculation of Florida corporate income tax starts with a corporation's federal taxable income.⁴⁵ After certain addbacks and subtractions to federal taxable income required by chapter 220, F.S., the amount of adjusted federal income attributable to Florida is determined by the application of an apportionment formula.⁴⁶ The Florida corporate income tax uses a three-factor apportionment formula consisting of property, payroll, and sales (which is double-weighted) to measure the portion of a multistate corporation's business activities attributable to Florida.⁴⁷ Income that is apportioned to Florida using this formula is then subject to the Florida income tax. The first \$50,000 of net income is exempt.⁴⁸

Estimated Payments

Current Situation

Section 220.24, F.S., requires each corporate income taxpayer to declare its estimated tax for the taxable year, if the amount payable as estimated tax can be expected to be more than \$2,500. Section 220.33, F.S., requires these taxpayers to pay estimated taxes in equal installments, depending upon when they are required to file their declarations of estimated taxes. The payments are due before the first day of specified months, including the 7th month of the taxable year, which for calendar-year corporations is also the first month of the state's fiscal year. Most taxpayers choose to use the calendar year as their "taxable year." In 2014⁴⁹, 84.4 percent of corporate income tax filers were calendar year taxpayers. In that same year, 76.5 percent of total corporate income tax collections were from calendar year taxpayers.

⁴⁴ s. 220.11, F.S.

⁴⁵ s. 220.12, F.S.

⁴⁶ s. 220.15, F.S.

⁴⁷ s. 220.15, F.S.

⁴⁸ s. 220.14, F.S.

⁴⁹ 2014 is the most recent year for which complete corporate income tax return data is available.

If the day on which an estimated payment due is a Saturday, Sunday, or legal holiday, payments made on that day will not be credited to the state until the following business day. Under this circumstance, estimated payments due before July 1 will fall into the next state fiscal year. Such a circumstance will occur at the end of state FYs 2017-18 and 2018-19.

Proposed Changes

The bill provides that any estimated tax payment which would otherwise be due on the last Saturday or Sunday of June shall be paid on or before the last Friday of June.

Corporate Income Tax Returns

Current Situation

On July 31, 2015, the federal government passed the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015,⁵⁰ which contains amendments to the Internal Revenue Code (IRC) regarding the due date for federal corporate income tax returns. Among other things, the federal change amended IRC section 6081(b) to provide that, beginning after 2015, a calendar year C-corporation may extend the time to file its federal corporate income tax return for 5 months.

On February 8, 2017, the Internal Revenue Service revised the instructions for Form 7004 (Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns). The revision reflects a clarification of the length of time a calendar year C-corporation may extend the due date for its federal income tax return. Although the 2015 federal law change to IRC section 6081(b) provides a 5-month extension period for calendar year C-corporations, the 2017 revision to the instructions for Form 7004 clarifies that under IRC section 6081(a) such taxpayer may receive a 6-month extension period.

Under Florida law, the due dates to file corporate income tax returns are generally aligned with federal income tax filing timeframes. When a Florida corporation or partnership is granted an extension of time to file its federal return, the taxpayer may file for an extension of time to file its Florida return.⁵¹ If granted, the extended Florida due date will generally be the 15th day after the expiration of the federal extension, or until the expiration of 6 months from the original due date, whichever occurs first.⁵² For taxable years beginning before January 1, 2026, for taxpayers with a taxable year ending on June 30, the extension is the 15th day after the expiration of the federal extension, or until the expiration of 7 months from the original due date; and for taxpayers with a taxable year ending December 31 (calendar year taxpayers), the extension is the 15th day after the expiration of the federal extension, or until the expiration of 5 months from the original due date.

Proposed Changes

The bill amends s. 220.222(2), F.S., to provide that for taxpayers with a taxable year ending December 31 (calendar year taxpayers), the extension is until the expiration of 6 months from the original due date. This change aligns with the IRS allowance for calendar year taxpayers to receive a 6 month extension to file their federal income tax returns described above.

Corporate Income Tax: Research and Development Credits

Current Situation

⁵⁰ Pub.L. No. 114-41, H.R. 3236 (July 31, 2015).

⁵¹ If a taxpayer extends the time to file its Florida return, the taxpayer must file a tentative tax return pursuant to s. 220.32, F.S.

⁵² Section 220.222(2), F.S.

Federal Tax Credit-- The “U.S. Research and Experimentation Tax Credit” was created in 1981 as part of the Economic Recovery Tax Act, a comprehensive package of initiatives designed to boost U.S. business competitiveness and encourage investment and savings by American taxpayers during a period of economic recession.⁵³ For the 2013 federal tax year, 16,624 companies claimed \$11.3 billion in R&D tax credits, including \$177.1 million claimed via “pass-through” entities.⁵⁴ At \$97.8 billion, manufacturing companies claimed the largest portion of research tax credits.⁵⁵

Florida Tax Credit--Section 220.196, F.S., authorizes an R&D tax credit against state corporate income taxes for certain businesses with qualified research expenses that received the federal credit. The tax credit is 10 percent of the difference between the current tax year’s research and development expenditures in Florida and the average of R&D expenditures over the previous four tax years. However, if the business has existed fewer than four years, then the credit amount is reduced by 25 percent for each year the business or predecessor corporation did not exist.

The state tax credit taken in any taxable year may not exceed 50 percent of the company’s remaining net corporate income tax liability under ch. 220, F.S., after all other credits to which the business is entitled have been applied. Any unused credits may be carried forward by the business that originally earned them for up to five years following the year in which the qualified research expenses were incurred.

The maximum amount of research and development credits that may be approved by the DOR during any calendar year is \$9 million. Applications for the credit may be filed with the DOR between March 20th and March 27th for qualified research expenses incurred within the preceding calendar year. If the total amount of credits applied for exceeds the annual cap, credits are allocated on a prorated basis.

The Legislature passed a one-time increase in the \$9 million cap for research and development tax credits to \$23 million for calendar year 2016.⁵⁶ This cap amount was allocated as follows:

- The DOR received 131 applications during the one week application window, requesting a total of \$52,481,052 in credits.
- 118 applications were approved. Each applicant received approximately 46 percent of the amount of credit determined in their application. These 118 applications requested \$50,447,562 in credit.
- 13 applications were denied for various reasons, including withdrawal by the taxpayer, duplicate applications, application figures resulting in zero credit requested, and failure to include a required certification letter from the Department of Economic Opportunity (DEO). These 13 applications requested \$2,003,490 in credit.

Proposed Changes

The bill increases the maximum amount of credits that may be granted in calendar year 2018 from \$9 million to \$20 million.

Voluntary Cleanup Tax Credit Program - Brownfields Tax Credit

Current Situation

⁵³ “The U.S. Research and Experimentation Tax Credit in the 1990s” by Francisco Moris. National Science Foundation Report #NSF05-316 published July 2005. Retrieved at <http://www.nsf.gov/statistics/infbrief/nsf05316/> and “The Prospects for Economic Recovery,” prepared by the Congressional Budget Office. Published February 1982. Pertinent information on pages 87-93. Retrieved at <http://www.cbo.gov/ftpdocs/51xx/doc5135/doc03b-Part8.pdf>. (last visited on March 22, 2017)

⁵⁴ Internal Revenue Service, Statistics of Income Division, available at: <http://www.irs.gov/uac/SOI-Tax-Stats-Corporation-Research-Credit>, (last visited March 22, 2017).

⁵⁵ Internal Revenue Service, Statistics of Income Division, available at: <http://www.irs.gov/uac/SOI-Tax-Stats-Corporation-Research-Credit>, (last visited March 22, 2017).

⁵⁶ See s. 21, ch. 2015-221, Laws of Fla.

In 1998, the Legislature provided the Department of Environmental Protection (DEP) the direction and authority to issue tax credits as an additional incentive to encourage site rehabilitation in brownfield areas and to encourage voluntary cleanup of certain other types of contaminated sites. This corporate income tax credit may be taken in the amount of 50 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites:

- A site eligible for state-funded cleanup under the Drycleaning Solvent Cleanup Program;⁵⁷
- A drycleaning solvent contaminated site at which the real property owner undertakes voluntary cleanup, provided that the real property owner has never been the owner or operator of the drycleaning facility; or
- A brownfield site in a designated brownfield area.⁵⁸

Eligible tax credit applicants may receive up to \$500,000 per site per year in tax credits. Due to concern that some participants in a voluntary cleanup might only conduct enough work to eliminate or minimize their exposure to third party lawsuits, current law also provides a completion incentive in the form of an additional 25 percent supplemental tax credit for those applicants that completed site rehabilitation and received a Site Rehabilitation Completion Order from the DEP. This additional supplemental credit has a \$500,000 cap. Businesses are also allowed a one-time application for an additional 25 percent of the total site rehabilitation costs, up to \$500,000, for brownfield sites at which the land use is restricted to affordable housing. They may also submit a one-time application claiming 50 percent of the costs, up to \$500,000, for removal, transportation and disposal of solid waste at a brownfield site.

Site rehabilitation tax credit applications must be complete and submitted by January 31 of each year. The total amount of tax credits for all sites that may be granted by the DEP is \$5 million annually. In the event that approved tax credit applications exceed the \$5 million annual authorization, the statute provides for remaining applications to roll over into the next FY to receive tax credits in first come, first served order from the next year's authorization. These tax credits may be applied toward corporate income tax in Florida. The tax credits may be transferred one time, although they may succeed to a surviving or acquiring entity after merger or acquisition.

Since 1998, the VCTC Program has awarded \$66.9 million in VCTCs. Total requests for tax credits have met or exceeded the annual authorization since 2007.⁵⁹ Since 2012, the approved tax credits have averaged more than \$8.3 million per year. In 2015, the Legislature approved a one-time tax credit authorization of \$21.6 million, which allowed the DEP to issue certificates for all tax credits that were approved but had not received funding. In 2016, DEP received 99 tax credit applications and approved \$10.8 million in VCTCs for site rehabilitation work completed in 2015. However, some of the tax credit recipients will not receive their certificates until 2018 because the total eligible requests received for 2015 site rehabilitation work exceeded the \$5 million authorization by \$5.8 million. In 2017, DEP received 133 tax credit applications in the amount of \$14.8 million in requested tax credits for site rehabilitation work completed in 2016.⁶⁰

Proposed Changes

The bill provides the amount of credits that may be awarded in FY 2017-18 is \$20 million, and increases the annual amount of credits that may be awarded from \$5 million to \$10 million in each fiscal year thereafter.

Sales/Corporate/Ins. Premiums Tax: Community Contribution Tax Credit Program

⁵⁷ s. 376.30781, F.S.

⁵⁸ s. 220.1845, F.S.

⁵⁹ DEP, Florida Brownfields Redevelopment Program, 2016 Annual Report, available at:

http://www.dep.state.fl.us/Waste/quick_topics/publications/wc/brownfields/AnnualReport/2016/2015-16_FDEP_Annual.pdf (last visited March 22, 2017).

⁶⁰ DEP, Agency Analysis of 2017 HB 753, p. 5 (March 3, 2017).

Current Situation

In 1980, the Legislature established the Community Contribution Tax Credit Program (“CCTCP”) to encourage private sector participation in community revitalization and housing projects.⁶¹ Broadly, the CCTCP offers tax credits to businesses or persons (“taxpayers”) anywhere in Florida that contribute⁶² to certain projects undertaken by approved CCTCP sponsors.⁶³

Eligible sponsors under the CCTCP include a wide variety of community organizations, housing organizations, historic preservation organizations, units of state and local government, and regional workforce boards.⁶⁴ As of November, 2016, the CCTCP had 119 approved sponsors.⁶⁵

Eligible projects include activities undertaken by an eligible sponsor that are designed to accomplish one of the following purposes:

- To construct, improve, or substantially rehabilitate housing that is affordable to low-income households or very-low-income households as those terms are defined in s. 420.9071;
- To provide commercial, industrial, or public resources and facilities; or
- To improve entrepreneurial and job-development opportunities for low-income persons.⁶⁶

In addition, eligible projects must be located in an area that was designated as an enterprise zone as of May 1, 2015⁶⁷ or a Front Porch Florida Community, with two exceptions. First, any project designed to construct or rehabilitate housing for low-income households or very-low-income households as those terms are defined in s. 420.9071, F.S., is exempt from the area requirement. Second, any project designed to provide increased access to high-speed broadband capabilities that includes coverage in a rural community that had an enterprise zone designation as of May 1, 2015, may locate the project's infrastructure in any area of a rural county (inside or outside of the zone).

The DEO administers the CCTCP, and its responsibilities include reviewing sponsor project proposals and tax credit applications, periodically monitoring projects, and marketing the CCTCP in consultation with the Florida Housing Finance Corporation and other statewide and regional housing and financial intermediaries.⁶⁸ Once approved by the DEO, the taxpayer must claim the community contribution tax credit from the DOR.

The credit is calculated as 50 percent of the taxpayer's annual contribution, but a taxpayer may not receive more than \$200,000 in credits in any one year.⁶⁹ The taxpayer may use the credit against corporate income tax, insurance premiums tax, or as a refund against sales tax.⁷⁰ Unused credits against corporate income taxes and insurance premium taxes may be carried forward for five years.⁷¹ Unused credits against sales taxes may be carried forward for three years.⁷²

⁶¹ Ch. 80-249, Laws of Fla. The CCTCP is one of the state incentives available under the Florida Enterprise Zone Act, which is scheduled to be repealed on December 31, 2015. Sections 290.007(3) and 290.016, F.S.

⁶² Sections 212.08(5)(p)2.a., 220.183(2)(a), and 624.5105(5)(a), F.S require community contributions to be in the form of cash or other liquid assets, real property, goods or inventory, or other physical resources.

⁶³ See ss. 212.08(5)(p); 220.183; and 624.5105, F.S.

⁶⁴ See ss. 212.08(5)(p)2.c.; 220.183(2)(c); and 624.5105(2)(c), F.S.

⁶⁵ DEO, Division of Community Development, Email to House Ways & Means staff, Nov. 8, 2016. Email on file with the Ways & Means Committee.

⁶⁶ ss. 212.08(5)(p)2.b.; 220.183(2)(d); 624.5105(2)(b); and 220.03(1)(t), F.S.

⁶⁷ The Florida Enterprise Zone Act was partially repealed as of December 31, 2015- see ch. 2015-221, L.O.F.; s. 290.016, F.S.

⁶⁸ ss. 212.08(5)(p)4.; 220.183(4); and 624.5105(4), F.S.

⁶⁹ ss. 212.08(5)(p)1.; 220.183 (1)(a) and (b); and 624.5105(1), F.S.

⁷⁰ See ss. 212.08(5)(p); 220.183; and 624.5105, F.S.

⁷¹ ss. 220.183(1)(e) and (g); and 624.5105, F.S.

⁷² s. 212.08(5)(p)1.b. and f., F.S.

DOR may approve \$21.4 million in annual funding for projects that provide homeownership opportunities for low-income and very-low-income households or housing opportunities for persons with special needs and \$3.5 million for all other projects. “Persons with special needs” is defined in current statute to include adults requiring independent living services, young adults formerly in foster care, survivors of domestic violence, and people receiving Social Security Disability Insurance, Supplemental Security Income, or veterans’ disability benefits.⁷³ During FY 2015-2016, the DEO approved 430 tax credit applications submitted by 60 eligible sponsors for eligible projects located in 32 counties. For FY 2016-17, as of March 16, 2017, the DEO has approved 349 tax credit applications.⁷⁴ For FY 2014-15, as of December 31, 2014, the DEO has approved 383 tax credit applications.⁷⁵

The Legislature extended the CCTCP in 1984, 1994, 2005, 2014, and 2015.⁷⁶ It has also amended the annual tax credit allocation of the CCTCP on numerous occasions.⁷⁷ The CCTCP cap, which started at \$3 million annually, is currently set at \$24.9 million. The cap has been reached every FY since FY 2001-02.

The CCTCP expires June 30, 2018.⁷⁸

Proposed Changes

The bill extends the expiration date of the CCTCP to June 30, 2019 at current funding levels.

Cigarette Tax: Biomedical Research

Current Situation

Chapter 210, F.S., governs taxes on tobacco products. Cigarette tax collections received by the Division of Alcoholic Beverages and Tobacco (division) in the DBPR are deposited into the Cigarette Tax Collection Trust Fund. Section 210.20, F.S., provides for the payment of monthly distributions as follows:

From the total amount of cigarette tax collections:⁷⁹

- 8.0 percent service charge to the General Revenue Fund;⁸⁰ and
- 0.9 percent to the Alcoholic Beverage and Tobacco Trust Fund.

From the remaining net collections:⁸¹

- 2.9 percent to the Revenue Sharing Trust Fund for Counties;
- 29.3 percent to the Public Medical Assistance Trust Fund;
- 4.04 percent to the Moffitt Center,⁸² and
- 1.0 percent to the Biomedical Research Trust Fund in the Department of Health (DOH).⁸³

⁷³ s. 420.0004(13), F.S.

⁷⁴ Email correspondence with DEO staff, March 22, 2017, on file with House Ways & Means Committee.

⁷⁵ Florida Legislature, Office of Economic and Demographic Research, Revenue Estimating Conference, Community Contribution Tax Credits Extension, HB 311/SB 302, p. 19, January 26, 2015 Revenue Impact Results, http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/_pdf/impact0126.pdf.

⁷⁶ Chs. 84-356, 94-136, 2005-282, 2014-38, and 2015-221 Laws of Fla.

⁷⁷ See Chs. 94-136, 98-219, 99-265, 2005-282, 2006-78, 2008-153, and 2015-221 Laws of Fla.

⁷⁸ Ch. 2014-038, s. 15 Laws of Fla.

⁷⁹ See s. 210.20(2)(a), F.S.

⁸⁰ See s. 215.20(1), F.S. concerning the appropriation of the eight percent service charge to the General Revenue Fund.

⁸¹ See s. 210.20(2)(a), F.S.

⁸² See s. 210.20(2)(b), F.S. The distribution of cigarette tax funds to the Moffitt Center was initiated in 1998, using 2.59 percent for the calculation on net cigarette tax collections. See ch. 98-286, Laws of Fla. The last adjustment to the percentage for the calculation occurred in 2014, when the percentage was set at the current 4.04 percent from July 1, 2014 through June 30, 2017. See s. 8 of ch. 2014-38., Laws of Fla.

After the above distributions are made, the remaining balance of net cigarette tax collections is deposited in the General Revenue Fund.⁸⁴

The funds deposited into the Biomedical Research Trust Fund are appropriated annually in an amount not to exceed \$3 million for the purpose of establishing activities and grant opportunities in relation to biomedical research.⁸⁵ The Department of Health and the Sanford-Burnham Medical Research Institute are required to use the funding to work in conjunction for these purposes.

Proposed Changes

The bill repeals the 1.0 percent distribution to the Biomedical Research Trust Fund. Upon this bill becoming a law, those funds will instead go to the General Revenue Fund.

Highway Safety Fees: Boat Trailers Fees for ch. 501 (c)(3) Organizations

Current Situation

Florida law imposes annual license taxes and one-time registration fees for the operation of motor vehicles, mopeds, motorized bicycles, tri-vehicles, trailers, and mobile homes.⁸⁶ The amount of the fee depends of the type and size of the vehicle.

Proposed Changes

The bill provides an exemption from the annual license tax and surcharges for any marine boat trailer owned and operated by a nonprofit organization that is exempt under s. 501(c)(3) of the Internal Revenue Code and which is used exclusively in carrying on their customary nonprofit activities. The annual tax and surcharge savings on a trailer weighing 500 lbs. or less would be \$21.10.

Alcoholic Beverages Excise Taxes

Current Situation

Section 563.01, F.S., defines “beer” and “malt beverage” to mean all brewed beverages containing malt. Section 534.01, F.S., defines “wine,” in part, to mean all beverages made from fresh fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added, in the manner required by the laws and regulations of the United States, and includes all sparkling wines, champagnes, combination of the aforesaid beverages, vermouths, and like products. Section 565.01, F.S., defines “liquor” to mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.

Excise taxes are imposed upon the manufacturers and distributors of beer, wine and liquor.⁸⁷

Beer	
Pints or less	\$0.06 each
Quarts	\$0.12 each

⁸³ Pursuant to s. 210.20(2)(c), F.S. these funds (constituting 1.0 percent of net collections) are appropriated in an amount up to \$3 million annually during the period of July 1, 2013 to June 30, 2033, to the DOH and the Sanford-Burnham Medical Research Institute for the purpose of those entities working to establish activities and grant opportunities relating to biomedical research.

⁸⁴ See s. 210.20(b), F.S.

⁸⁵ s. 210.20(1)(c), F.S.

⁸⁶ s. 320.08, F.S.

⁸⁷ See ss. 563.05, F.S., 564.06, F.S., and 565.12, F.S.

Bulk Gallons	\$0.48 per gallon
Wine (% alcohol by volume)	
Less than 17.259%	\$2.25 per gallon
17.259% or more	\$3.00 per gallon
Natural Sparkling	\$3.50 per gallon
Cider	\$0.89 per gallon
Liquor (% alcohol by volume)	
Less than 17.259%	\$2.25 per gallon
17.259% to 55.780%	\$6.50 per gallon
More than 55.780%	\$9.53 per gallon

There are some products that meet the federal definition of “beer,” but are not beer under current Florida law because they do not contain malt. Consequently, they are taxed at the \$2.25 per gallon liquor tax rate.

On January 17, 2017, the DBPR’s Division of Alcoholic Beverages and Tobacco published Industry Notice 2017-001.⁸⁸ The notice provided, in pertinent part:

The Division of Alcoholic Beverages and Tobacco has recently reviewed the brand registration and excise tax classification for several alcoholic beverage brands comprising a product variety commonly known as non-malt spirituous seltzer beverages. The Division’s review has determined that clarification regarding this product variety may be needed to ensure the consistent and compliant registration and reporting of these particular products within the industry in Florida.

The alcoholic beverage products regulated by the Florida Beverage Law are classified in three primary beverage types – beer or malt beverages, wine, and liquor. The Division relies on this statutory delineation of the alcoholic beverage product types in the licensing, auditing, and enforcement of regulated entities engaged in the manufacturing, distribution, or retail sale of alcoholic beverages in Florida.

Section 563.01, Florida Statutes, defines “beer” and “malt beverages” to mean all brewed beverages containing malt. Section 564.01, Florida Statutes, defines “wine,” in part, to mean all beverages made from fresh fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added, in the manner required by the laws and regulations of the United States, and includes all sparkling wines, champagnes, combination of the aforesaid beverages, vermouths, and like products. Section 565.01, Florida Statutes, defines “liquor” to mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.

By definition, alcoholic beverages not containing malt do not qualify to be registered as beer or malt beverage. Similarly, alcoholic beverages not made from fresh fruits, berries, or grapes do not qualify to be registered as wine. If unable to qualify as beer or wine, an alcoholic beverage may be categorized as liquor. ***Pursuant to the Florida Beverage Law, spirituous seltzer beverages and similar products that do not contain malt and are not made from fresh fruits are classified as liquor for the purpose of brand registration in Florida. (emphasis supplied)***

⁸⁸ <http://www.myfloridalicense.com/dbpr/abt/documents/2017.01.17%20Industry%20Notice%202017-001%20Spirituous%20Seltzer%20Beverages.pdf>

Alcoholic beverages that are not classified as a malt beverage or as wine, which contain less than 17.259 percent alcohol by volume, are subject to alcoholic beverage excise taxes at a rate of \$2.25 per gallon. The Florida Beverage Law requires that this rate be computed and remitted with the monthly report for all spirituous seltzer beverages or similar alcoholic beverages sold during the previous calendar month.

Proposed Changes

The bill amends the definition of “beer” and “malt beverage” to more closely align with the federal definition of beer set forth in 27-CFR 25.11, but limits the alignment to beverages that are under six percent alcohol by volume. The federal definition of beer appears to encompass non-malt spirituous seltzer type beverages, although specific determinations would depend on the specific formulation of the beverage in question.

Property Taxation in Florida

Local governments, including counties, school districts, and municipalities have the constitutional authority to levy ad valorem taxes. Special districts may also be given this authority by law.⁸⁹ Ad valorem taxes are collected on the fair market value of the property, adjusting for any exclusions, differentials or exemptions.

All ad valorem taxation must be at a uniform rate within each taxing unit, subject to certain exceptions with respect to intangible personal property.⁹⁰ However, the Florida constitutional provision requiring that taxes be imposed at a uniform rate refers to the application of a common rate to all taxpayers within each taxing unit – not variations in rates between taxing units.⁹¹

Federal, state, and county governments are immune from taxation but municipalities are not subdivisions of the state and may be subject to taxation absent an express exemption.⁹² The Florida Constitution grants property tax relief in the form of certain valuation differentials,⁹³ assessment limitations,⁹⁴ and exemptions,⁹⁵ including the exemptions relating to municipalities and exemptions for educational, literary, scientific, religious or charitable purposes.

Ad Valorem: Inventory Definition

Current Situation

⁸⁹ FLA. CONST. art VII, s. 9,

⁹⁰ FLA. CONST. art VII, s. 2.

⁹¹ See, for example, *Moore v. Palm Beach County*, 731 So. 2d 754 (Fla. 4th DCA 1999) citing *W. J. Howey Co. v. Williams*, 142 Fla. 415, 195 So. 181, 182 (1940).

⁹² “Exemption” presupposes the existence of a power to tax, while “immunity” implies the absence of it. See *Turner v. Florida State Fair Authority*, 974 So. 2d 470 (Fla. 2d DCA 2008); *Dept. of Revenue v. Gainesville*, 918 So. 2d 250, 257-59 (Fla. 2005).

⁹³ FLA. CONST. art VII, s. 4, authorizes valuation differentials, which are based on character or use of property.

⁹⁴ FLA. CONST. art VII, s. 4(c), authorizes the “Save Our Homes” property assessment limitation, which limits the increase in assessment of homestead property to the lesser of 3 percent or the percentage change in the Consumer Price Index. S. 4(e) authorizes counties to provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. This provision is known as the “Granny Flats” assessment limitation.

⁹⁵ FLA. CONST. art VII, s. 3, provides authority for the various property tax exemptions. The statutes also clarify or provide property tax exemptions for certain licensed child care facilities operating in an enterprise zone, properties used to provide affordable housing, educational facilities, charter schools, property owned and used by any labor organizations, community centers, space laboratories, and not-for-profit sewer and water companies.

Current law exempts from ad valorem taxation all items of inventory.⁹⁶ “Inventory” is defined as chattels consisting of items commonly referred to as goods, wares, and merchandise (as well as inventory) which are held for sale or lease to customers in the ordinary course of business.⁹⁷ Supplies and raw materials are considered to be inventory only to the extent that they are acquired for sale or lease to customers in the ordinary course of business or will physically become a part of merchandise intended for sale or lease to customers in the ordinary course of business. Partially finished products which when completed will be held for sale or lease to customers in the ordinary course of business are deemed items of inventory. All livestock is considered inventory.

Items of inventory held for lease to customers in the ordinary course of business, rather than for sale, are deemed inventory only prior to the initial lease of such items. Current administration of the law by property appraisers in most counties is to treat such property as taxable tangible personal property once in the hands of a lessee. Should the property be back in the hands of the lessor, the property appraiser will look to the intent of the lessor and determine whether the lessor intends to sell or lease the property. If the intent is to lease the property, it remains taxable. If the intent is to sell the property, it is again treated as inventory. However, the property is never considered inventory when it is in the hands of a lessee.

Proposed Changes

The bill amends the definition of inventory to explicitly include construction and agricultural equipment weighing 1,000 pounds or more that is returned to a dealership under a rent to purchase option and held for sale to customers in the ordinary course of business.

Ad Valorem: Affordable Housing Agreements

Current Situation

The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,⁹⁸ and it provides for specified assessment limitations, property classifications and exemptions.⁹⁹ Such exemptions include, but are not limited to, exemptions for such portions of property used predominately for educational, literary, scientific, religious or charitable purposes.¹⁰⁰

In 1999,¹⁰¹ the Legislature authorized a property tax exemption for property owned by certain exempt entities which provide affordable housing under the charitable purposes exemption. The property must be owned entirely by a not for profit corporation, used to provide affordable housing through any state housing program under ch. 420, F.S., and serving low-income and very-low-income persons.¹⁰² In order to qualify for the exemption, the property must comply with ss. 196.195 for determining non-profit status of the property owner and s. 196.196 for determining exempt status of the use of the property.

In determining whether an applicant is a nonprofit or profit-making venture, s. 196.195 outlines the statutory criteria that a property appraiser must consider.¹⁰³ The applicant must show that “no part of the subject property, or the proceeds of the sale, lease, or other disposition thereof, will inure to the

⁹⁶ s. 196.185, F.S.

⁹⁷ s. 192.001(11)(c), F.S.

⁹⁸ Fla. Const., art. VII, s. 4.

⁹⁹ Fla. Const., art. VII, ss. 3, 4, and 6.

¹⁰⁰ Fla. Const., art. VII, s. 3.

¹⁰¹ s. 15, ch. 99-378, Laws of Fla., codified at s. 196.1978, F.S.

¹⁰² The not for profit corporation must qualify as charitable under s. 501(c)(3) of the Internal Revenue Code and other federal regulations. See 26 U.S.C. § 501(c)(3) (“charitable purposes” include relief of the poor, the distressed or the underprivileged, the advancement of religion, and lessening the burdens of government).

¹⁰³ s. 196.195, F.S.

benefit of its members, directors, or officers or any person or firm operating for profit or for a nonexempt purpose.”¹⁰⁴

In determining whether the use of a property qualifies as charitable, s. 196.196 requires the property appraiser to consider the nature and extent of the qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by other qualifying entities.¹⁰⁵

The Florida Housing Finance Corporation (FHFC) was created by the Legislature to administer the governmental function of financing or refinancing housing and related facilities, and is described as an “entrepreneurial public corporation” that is housed in, but not controlled by, the DEO.¹⁰⁶ The FHFC programming provides numerous financing resources, such as loans and tax credits, to real estate developers who build certain low-income housing projects. Rental property developers who receive financing from the FHFC must agree to enter a Land Use Restrictive Agreement (LURA), which subjects the rental property to certain limitations in exchange for preferable financing, in the way of low-interest loans or tax credits.¹⁰⁷ The purpose of a LURA is to ensure FHFC-financed housing remains affordable by limiting the maximum rent that can be charged for a unit and by requiring that some or all of the units be made available only to households with specified lower income.¹⁰⁸ The land use restrictions are documented in the LURA, and recorded in the public record.¹⁰⁹ Recording the LURA means its restrictions run with the land, so that if the property is sold during the term of the agreement, then the buyer must also abide by the terms of the LURA. Depending on applicable federal and state program requirements, the restriction period for the property may be as short as 10 years or as long as 50 years.¹¹⁰

Proposed Changes

Effective January 1, 2018, the bill provides that certain property used to provide affordable housing will be considered a charitable purpose and qualify for a 50 percent property tax discount, notwithstanding the requirements of ss. 196.195 and 196.196, F.S.

In order to qualify for the discount, the property must:

- Provide affordable housing to natural persons or families meeting the extremely low, very low, or low-income limits specified in s. 420.0004, F.S.;
- Provide the housing in a multifamily project in which at least 70 units are providing affordable housing to the above group; and
- Be subject to an agreement with the Florida Housing Finance Corporation to provide affordable housing to the above group, recorded in the official records of the county in which the property is located.

The discount will begin in the 16th year of the term of the agreement on those portions of the affordable housing property that provide the housing as described above. The discount will terminate when the property is no longer serving extremely low, very low, or low-income persons pursuant to the recorded agreement. The discount is applied to taxable value prior to tax rolls being reported to taxing authorities and tax rates being set in the annual local government budgeting process.

Ad Valorem: Homes for the Aged

¹⁰⁴ s. 196.195(3), F.S.

¹⁰⁵ s. 196.196(1)(a)-(b), F.S.

¹⁰⁶ s. 420.504(1), F.S.

¹⁰⁷ Correspondence with Florida Housing Finance Corporation Staff, on file with the House Ways and Means Committee.

¹⁰⁸ Correspondence with Florida Housing Finance Corporation Staff, on file with the House Ways and Means Committee.

¹⁰⁹ See s. 420.504(46), F.S.

¹¹⁰ Correspondence with Florida Housing Finance Corporation Staff, on file with the House Ways and Means Committee.

Current Situation

Florida law exempts from ad valorem taxation property used as a home for the aged by certain nonprofit corporations.¹¹¹ In order to qualify for the exemption, the following criteria must be met:

- The applicant for exemption must be qualified as a 501(c)(3) exempt charitable organization under federal law by January 1 of the year it requests to be exempt from Florida ad valorem taxation; and either:
 - A corporation not for profit pursuant to ch. 17, F.S.; or
 - A Florida limited partnership, the sole general partner of which is a corporation not for profit pursuant to ch. 17; and
- Seventy-five percent of the occupants of the facility must be over the age of 62 years or be totally and permanently disabled;
- Certain facilities must also acquire licensing by the Agency for Health Care Administration.¹¹²

Upon sufficient proof that the applicant meets the above criteria, the property appraiser will exempt the portions of the facility which are devoted exclusively to the conduct religious services or the rendering of nursing or medical services. In addition, the property appraiser may exempt individual units or apartments in the facility if residency in those units or apartments is restricted to or occupied by certain persons who are either low income or disabled as specified below:

- Persons who have gross incomes¹¹³ of not more than \$7,200¹¹⁴ per year and who are 62 years of age or older.
- Couples, one of whom must be 62 years of age or older, having a combined gross income of not more than \$8,000 per year, or the surviving spouse thereof, who lived with the deceased at the time of the deceased's death in a home for the aged.
- Persons who are totally and permanently disabled and who have gross incomes of not more than \$7,200 per year.¹¹⁵
- Couples, one or both of whom are totally and permanently disabled, having a combined gross income of not more than \$8,000 per year, or the surviving spouse thereof, who lived with the deceased at the time of the deceased's death in a home for the aged.

Any portion of the facility used for nonexempt purposes may be valued and placed upon the tax rolls separately from any portion entitled to the exemption.

In order to demonstrate to the property appraiser the facility is qualified for the exemption, the facility must annually file an application for exemption with the property appraiser (DR-504HA).¹¹⁶ Section 196.1975(9)(b) also requires the facility to file with the application an affidavit from each person residing in a unit or apartment in the facility that meets the disability or income requirements described above (DR-504S). Paragraph (9)(b) provides that the person signing the affidavit attests that he or she resides in the unit or apartment claiming the exemption and, in good faith, makes that unit or apartment his or her permanent residence. The application notifies the facility that it may be required to provide supplemental information other than the application upon a reasonable request by the property appraiser.¹¹⁷

Proposed Changes

¹¹¹ Fla. Const. ss. 3(a), 6(c), art. VII, implemented by s. 196.1975, F.S.

¹¹² Facilities that furnish medical facilities or nursing services, or qualifies as an assisted living facility under ch. 429. See s. 196.1975(2), F.S.

¹¹³ Includes social security benefits for purposes of this exemption. See s. 196.1975(6), F.S.

¹¹⁴ Section 196.1975(4)(b), F.S., provides all of the income limitations are annually adjusted by the percentage change in the average cost-of-living index.

¹¹⁵ Section 196.1975(4)(a), F.S., provides the income limitations do not apply to totally and permanently disabled veterans that meet the requirements of s. 196.081, F.S.

¹¹⁶ s. 196.1975(9)(b), F.S.

¹¹⁷ DOR, Ad Valorem Tax Exemption Application and Return, Homes for the Aged, DR-504HA, available at:

http://floridarevenue.com/Pages/forms_index.aspx (last visited April 1, 2017).

The bill provides that each facility applying for an exemption must file with the annual application for exemption an affidavit approved by the Department of Revenue from each person who occupies a unit or apartment stating the person's income and provides that the affidavit is prima facie evidence of the person's income. However, if the property appraiser determines, at a later time, that additional documentation proving an affiant's income is necessary, the property appraiser may request such documentation. The bill provides that the facility is not required to provide an income affidavit from a resident who is a totally and permanently disabled veteran who meets the requirements of s. 196.081, F.S.

DOR Tax Administration

This bill contains recommendations for general tax administration improvements, primarily consisting of legislative concepts submitted by the DOR following approval by the Governor and Cabinet. The bill includes numerous statutory changes intended to reduce the burden of compliance on taxpayers, reduce the DOR's costs, increase efficiency in tax administration, and improve enforcement of tax laws.

Estate Administration Reporting

Current Situation

Current law requires each circuit judge of this state to notify the DOR and the Agency for Healthcare Administration on a monthly basis of names and certain other information related to all estates of decedents that commenced estate administration during the preceding month.¹¹⁸ Due to changes in estate and intangible tax law, the DOR no longer uses or needs this information.

In addition, the personal representative of an estate generally must notify the creditors of the decedent that estate administration proceedings have commenced.¹¹⁹ If the DOR has not previously been served with a copy of the notice to creditors, then the personal representative is also required to provide the DOR with a copy of the estate's inventory, even when the DOR is not a creditor.¹²⁰

Proposed Changes

The bill removes the DOR from the monthly reporting requirement for circuit court judges.

In addition, the bill provides that the personal representative has to provide the DOR with a copy of the notice of creditors only when the DOR is a creditor.

Registration Fees

Current Situation

Under current law, the following registration and licensing fees must be paid to the DOR:

- Terminal supplier, importer, exporter, blender, biodiesel manufacturer, or wholesaler of motor fuel license tax (\$30 annually);¹²¹
- Private or common carrier of motor fuel license tax (\$30 annually);¹²²
- Terminal operator license tax (\$30 annually);¹²³

¹¹⁸ s. 198.30, F.S.

¹¹⁹ s. 733.2121, F.S.

¹²⁰ s. 733.2121(3)(e), F.S.

¹²¹ s. 206.02, F.S.

¹²² s. 206.021, F.S.

¹²³ s. 206.022, F.S.

- Any person who is not otherwise licensed pursuant to ch. 206 (fuel taxes) and who produces, imports, or causes to be imported pollutants, a temporary license fee (\$30 annually);¹²⁴
- Commercial air carrier license application fee (\$30 annually);¹²⁵
- Natural gas fuel retailer license fee (\$5 annually);¹²⁶
- Unregistered persons who but for their mail order purchases would not be required to remit sales or use tax directly to the DOR (unspecified amount);¹²⁷
- Most sales tax dealers (one time \$5 registration fee for paper return filers);¹²⁸
- Drycleaning facility or drycleaning drop-off facility registration fee (\$30 annually);¹²⁹ and
- Any person producing in, importing into, or causing to be imported into, or selling in, this state perchloroethylene registration fee (e.g., chemical sold to drycleaning facilities).¹³⁰

In addition, when motor fuel or diesel fuel is sold by a retail dealer to a person who claims to be entitled to a refund, such person may file a refund claim pursuant to s. 206.41, F.S., and is charged \$2 per refund claim.

Proposed Changes

The bill eliminates the license registration fees described above, as well as the \$2 per refund charge.

Vending Machine Operators

Current Situation

An operator of a vending machine may not operate or cause to be operated in this state any vending machine until the operator has registered with the DOR, has obtained a separate registration certificate for each county in which such machines are located, and has affixed a notice to each vending machine selling food or beverages.¹³¹ The penalty for noncompliance with the notice requirement is \$250 per machine.¹³² The notice is intended to notify customers that each vending machine must contain the required notice, and if a machine does not have such notice the customer may report the noncompliance to the DOR and potentially receive a cash reward.¹³³

The DOR estimates that they receive approximate 100-150 calls per year on the toll free number provided on the notice related to vending machines, but almost all of those calls are individuals complaining that the machine does not work. The DOR has never issued the \$250 penalty, nor the reward for reporting noncompliance.

Proposed Changes

The bill removes the notice requirement, the associated penalty, and the customer reward for reporting noncompliance.

Local Option Fuel Taxes

Current Situation

¹²⁴ s. 206.9943, F.S.

¹²⁵ s. 206.9865, F.S.

¹²⁶ s. 206.9952, F.S.

¹²⁷ s. 212.0596, F.S.

¹²⁸ s. 212.18, F.S.

¹²⁹ s. 376.70, F.S.

¹³⁰ s. 376.75(2), F.S.

¹³¹ s. 212.0515(3)(a), F.S.

¹³² s. 212.0515(4), F.S.

¹³³ s. 212.0515(3)(b), F.S.

Counties may levy a “ninth-cent fuel tax” (one cent per net gallon) on motor fuel and diesel fuel if approved by extraordinary vote of its governing board or by voter referendum.¹³⁴ Counties also may levy a “local option fuel tax” on motor fuel (between one cent and 11 cents per net gallon) and diesel fuel (six cents per net gallon).

All impositions of the ninth-cent fuel tax or the local option fuel tax must be levied before October 1 of each year to be effective January 1 of the following year. This timing allows the DOR sufficient time to implement necessary changes in distribution programs and other administrative changes needed to implement the tax levy. However, levies of the tax which were in effect on July 1, 2002, and which expire on August 31 of any year may be re-imposed at the current authorized rate to be effective September 1 of the year of expiration. Current law does not specify when the re-imposition of the tax must be levied, which has resulted in some confusion and administrative challenges for implementing such re-impositions of tax.

Proposed Changes

The bill provides that levies of the ninth-cent fuel tax or the local option fuel tax which were in effect on July 1, 2002, and which expire on August 31 of any year may be re-imposed at the current authorized rate provided that the imposition of the tax is levied before July 1 to be effective September 1 of that year.

Tax Remittance Due Dates

Current Situation

Employers in Florida required to remit reemployment assistance contributions must do so on a quarterly basis, except that they may remit annually between January 1 and February 1 for employees performing domestic services, as defined in s. 443.1216(6), F.S.¹³⁵

For an annual administrative fee not to exceed \$5, employers can remit the quarterly contributions in equal installments according to specified due dates for each installment.¹³⁶

Any employer who employed 10 or more employees in any quarter during the preceding state FY must file the Employers Quarterly Reports (UCT-6) for the current calendar year and remit the contributions and reimbursements due by electronic means approved by the tax collection service provider.¹³⁷ An employer who is required file a UCT-6 report by approved electronic means, but who files the report by a means other than approved electronic means, is liable for a penalty of \$50 for that report and \$1 for each employee.¹³⁸

Proposed Changes

The bill provides that employers of employees performing domestic services described above must remit no later than January 31, or if that day is a Saturday, Sunday, or holiday, then on the next day that is not a Saturday, Sunday, or holiday.

Further, if any of the quarterly due dates for employers remitting contributions on an installment basis fall on a Saturday, Sunday, or holiday, then the due date will be the next day that is not a Saturday, Sunday, or holiday.

¹³⁴ s. 336.021(1)(a), F.S.

¹³⁵ s. 443.131, F.S.

¹³⁶ s. 443.141, F.S.

¹³⁷ s. 443.161(1), F.S.

¹³⁸ s. 443.161(2)(a)-(b), F.S.

For purposes of these changes, holidays are those dates designated by ss. 110.117(1) and (2), F.S., and any other day that the offices of the United States Postal Service are closed.

Lastly, the tax collection service provider (i.e., DOR) may waive the penalty for reporting by a means other than approved electronic means if a written request for waiver is filed that establishes that imposition would be inequitable. Examples of inequity include, but are not limited to, situations where the failure to e-file was caused by one of the following factors:

- Death or serious illness of the person responsible for the preparation and filing of the report.
- Destruction of the business records by fire or other casualty.
- Unscheduled and unavoidable computer down time.

B. SECTION DIRECTORY:

- Section 1. Amends s. 196.1975(4), F.S., to clarify the documentation needed to be submitted by certain nonprofit homes for the aged to obtain a property tax exemption.
- Section 2. Amends s. 196.1978, F.S., to create a property tax discount on certain property used for charitable affordable housing.
- Section 3. Amends s. 198.30, F.S., to eliminate the requirement that judges to report names of decedents to DOR.
- Section 4. Amends s. 192.001(11)(c), to clarify the definition of “inventory” for ad valorem tax purposes.
- Section 5. Amends ss. 206.02(2)(c), (3)(c), (4)(c), F.S., to remove the \$30 annual registration fee for a license to be a motor fuel supplier, importer, exporter, blender, or wholesaler.
- Section 6. Amends s. 206.021(3), F.S., to remove the \$30 annual registration fee for a license to be a motor fuel common carrier.
- Section 7. Amending s. 206.022(2), F.S., to remove the \$30 annual registration fee for a license to be a motor fuel terminal operator.
- Section 8. Amends s. 206.03(1), F.S., to conform to changes made to s. 206.02, F.S., by the bill.
- Section 9. Amends s. 206.045, F.S., to conform to changes made to ch. 206, F.S., by the bill.
- Section 10. Repeals ss. 206.405 and 206.406, F.S., to conform to changes made to ch. 206, F.S., by the bill.
- Section 11. Amends s. 206.41(5)(c)(2), F.S., to remove the \$2 fee for each motor fuel tax refund claim.
- Section 12. Amends s. 206.9943(3), F.S., to remove the \$30 annual registration fee for a pollutant tax license.
- Section 13. Amends s. 206.9952(9), F.S. to remove the \$5 annual registration fee for a natural gas retailer license.
- Section 14. Amends s. 206.9865(3), F.S., to remove the \$30 annual registration fee for a license to be a commercial air carrier.

- Section 15. Repeals s. 210.20(2)(c), F.S., to redirect the distribution of certain cigarette tax collections.
- Section 16. Amends 212.031(1)(c)(d), and adds (e), F.S., to reduce the sales and use tax rate on commercial real estate rentals.
- Section 17. Amends s. 212.04(1)(c), F.S., to exempt certain resales of admissions to exempt entities.
- Section 18. Amends ss. 212.0515(3)(a), (4), F.S., to remove a notice requirement for vending machine operators, the associated penalty for noncompliance, and the reward for reporting noncompliance.
- Section 19. Amends s. 212.0596(l)(7), F.S., to remove a reference to registration fees for unregistered persons who make mail order sales in Florida.
- Section 20. Amends s. 212.08(5)(p), F.S., to extend the CCTC for one year and set the tax credit cap at \$24.9 million; amends s. 212.08(5)(a), F.S., and adds (7)(ooo),(ppp), (19), and (20) to that section to provide the following sales tax exemptions:
- certain animal health products,
 - diapers and incontinence products,
 - products used to control menstrual flow,
 - annual sales tax holiday for certain purchases of by eligible military veterans, and
 - certain sales made between certain financial institutions and related parties.
- Section 21. Amends s. 212.18(3)(a), F.S., to remove the \$5 registration fee for sales and use tax dealers.
- Section 22. Amends s. 220.03(t), F.S., to conform to provisions in the bill that extend the CCTCP for one year and set the tax credit cap at \$24.9 million.
- Section 23. Amends s. 220.183(5), F.S., to extend the CCTC for one year and set the tax credit cap at \$24.9 million.
- Section 24. Amends s. 220.1845(2)(f), F.S., to set the cap for the Brownfields Redevelopment Program Tax Credit at \$20 million for 2017-2018 and \$10 million thereafter
- Section 25. Amends s. 220.196(3)(e), F.S., to increase the cap for the Research and Development Tax Credit to \$20 million for calendar year 2018.
- Section 26. Amends s. 220.222(2)(d) to change the filing date for certain income tax returns of calendar year taxpayers.
- Section 27. Amends s. 220.33(1), F.S., to change the filing date for estimated tax for corporate income tax to be due on the last Friday in June if the last day in June is a Saturday or Sunday.
- Section 28. Amends s. 320.08(13), F.S., to conform to the creation of s. 320.102, F.S., by the bill.
- Section 29. Adds new paragraph (k) to s. 320.10, F.S., to provide an exemption for motor vehicle license taxes on marine boat trailers owned by s. 501(c)(3) organizations.
- Section 30. Creates s. 320.102, F.S., to exempt certain marine boat trailers owned by s. 501(c)(3) organizations from motor vehicle fees.

- Section 31. Amends s. 336.021(5), F.S., to provide that levies of the ninth-cent fuel which expire on August 31 of any year may be re-imposed at the current authorized rate provided that the imposition of the tax is levied before July 1.
- Section 32. Amends s. 336.025(1)(b)(1), F.S., to provide that levies of the local option fuel tax which expire on August 31 of any year may be re-imposed at the current authorized rate provided that the imposition of the tax is levied before July 1.
- Section 33. Amends s. 376.30781(4), F.S., to set the cap for the Brownfields Redevelopment Program Tax Credit at \$20 million for 2017-2018 and \$10 million thereafter.
- Section 34. Amends s. 376.70(2), F.S., to remove the \$30 registration fee for dry cleaning facilities operators.
- Section 35. Amends s. 376.75(2), F.S., to remove the \$30 registration fee for persons producing or importing perchloroethylene.
- Section 36. Amends s. 443.131(1), F.S., to clarify the reemployment assistance contributions remittance due date for certain employers is no later than January 31, or the next day that is not a Saturday, Sunday, or holiday.
- Section 37. Amends s. 443.141(1)(a), F.S., to clarify that, for employers who remit reemployment assistance contributions remittance on an installment basis, the due date for any installment payment that falls on a Saturday, Sunday, or holiday will be the next day that is not a Saturday, Sunday, or holiday.
- Section 38. Amends s. 443.163, F.S., to allow tax collection service providers the option to waive penalties for incorrectly filed reports for specified reasons.
- Section 39. Amends s. 563.01, to amend the definitions of “beer” and “malt beverage.”
- Section 40. Amends s. 624.5105(6), F.S., to extend the CCTCP for one year and set the tax credit cap at \$24.9 million.
- Section 41. Amends s. 733.2121, F.S., to clarify a decedent’s personal representative needs to serve the DOR with a notice of creditors only when the DOR is a creditor.
- Section 42. Provides an exemption from the sales and use tax for the retail sale of certain clothes, school supplies, and personal computers and personal computer-related accessories during a specified period; provides emergency rulemaking authority; provides an appropriation.
- Section 43. Provides an exemption from the sales and use tax for the retail sale of certain supplies related to disaster preparedness during a specified period; provides emergency rulemaking authority; provides an appropriation.
- Section 44. Provides an exemption from the sales and use tax for the retail sale of certain textbooks during the 2017-18 fiscal year; provides emergency rulemaking authority.
- Section 45. Provides the DOR with emergency rulemaking authority to implement the amendments made to s. 212.08(19), F.S.
- Section 46. Amends s. 206.998, F.S., to conform to changes made to ch. 206, F.S., by the bill.
- Section 47. Provides an appropriation.

- Section 48. Provides that the amendments made by the bill to s. 212.08(5)(a), F.S., are remedial in nature and retroactive, but do not provide the basis for an assessment or refund of taxes.
- Section 49. Provides that the amendments made to s. 220.222, F.S., by the bill apply to taxable years beginning on or after January 1, 2016.
- Section 50. Provides an appropriation.
- Section 51. Provides effective dates.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
See Fiscal Comments.
2. Expenditures:
See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
See Fiscal Comments.
2. Expenditures:
See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will remove, either during specific periods of time or on an ongoing basis, the sales tax on various purchases of tangible personal property, and reduce the sales tax on the rental of commercial real estate.

The bill is expected to reduce the corporate income tax liability for certain taxpayers that utilize the tax credit programs affected by the bill.

D. FISCAL COMMENTS:

The total impact of the bill in FY 2017-2018 is -\$296.5 million (-\$276.0 million recurring) of which -\$238.3 million (-\$212.0 million recurring) is on General Revenue, -\$2.6 million is on state trust funds, and -\$55.6 million (-\$61.4 million recurring) is on local government (see table below). Non-recurring General Revenue and local government impacts in years beyond FY 2017-18, total -\$480.2 million and -\$61.1 million, respectively. Total tax reductions proposed by the bill are represented by the sum of the recurring impacts, reflecting the annual value of permanent tax cuts when fully implemented, and the pure nonrecurring impacts, reflecting temporary tax reductions. The total of -\$953.9 million in tax reductions proposed by the bill is the sum of -\$275.9 million (recurring, excluding appropriations), -\$136.7 million (pure nonrecurring in FY 2017-18), and -\$541.3 million (pure nonrecurring after FY 2017-18).

Appropriations Detail—The \$814,726 appropriated in the bill consists of \$241,200 to implement the “back-to-school” sales tax holiday, \$290,580 to implement the disaster preparedness sales tax holiday, \$149,818 to implement the business rent tax rate reduction and the new exemptions for diapers, incontinence products, and products used to control menstrual flow, and \$133,128 to administer the annual veterans’ clothing holiday. Most of the above appropriations are needed to pay the cost of notifying several hundred thousand sales tax dealers of either the temporary or permanent law changes.

Fiscal Year 2017-18 Estimated Fiscal Impacts (millions of \$)								
Issue	General Revenue		State Trust Funds		Local		Total	
	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.
Sales Tax: Business Rent/1.5% for 2 yrs/0.5% Perm.	(168.9)	(135.1)	(*)	(*)	(21.8)	(17.5)	(190.7)	(152.6)
Sales Tax: Tax Holiday/"Back-to-School" [Aug 4-13]	(56.0)	-	(*)	-	(14.3)	-	(70.3)	-
Sales Tax: Tax Holiday/Disaster Preparedness	(5.3)	-	(*)	-	(1.4)	-	(6.7)	-
Sales Tax: Veterans' Tax Holiday/Annual	(1.4)	(1.4)	(*)	(*)	(0.3)	(0.3)	(1.7)	(1.7)
Sales Tax: Diapers & Incontinence Products	(18.0)	(43.1)	(*)	(*)	(4.6)	(11.0)	(22.6)	(54.1)
Sales Tax: Hygiene Products	(3.8)	(8.9)	(*)	(*)	(1.0)	(2.3)	(4.8)	(11.2)
Sales Tax: College Textbooks (1 Yr)	(33.3)	-	(*)	-	(8.5)	-	(41.8)	-
Sales Tax: Agriculture/Animal Health & Other	(10.5)	(10.9)	-	-	(2.8)	(2.7)	(13.3)	(13.6)
Sales Tax: Admissions Resales	(2.2)	(2.4)	(*)	(*)	(0.6)	(0.6)	(2.8)	(3.0)
Sales Tax: Dodd-Frank Exemption	(1.6)	(7.5)	(*)	(*)	(0.3)	(1.0)	(1.9)	(8.5)
Ad Valorem: Inventory Definition (1)	-	-	-	-	-	(0.2)	-	(0.2)
Ad Valorem: Nonprofit Homes for the Aged								
Ad Valorem: Affordable Housing (1)	-	-	-	-	-	(25.8)	-	(25.8)
Beverage Tax: Beer/Malt Beverage Definitions	(**)	(**)	(**)	(**)	(**)	(**)	(**)	(**)
Corp Income Tax: Brownfields Credit Increase	(15.0)	(5.0)	-	-	-	-	(15.0)	(5.0)
Corp Income Tax: R&D Credit Increase	(7.9)	-	-	-	-	-	(7.9)	-
HSMV Fees: Boat Trailers Fees for 501(c)(3)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
DOR Registration Fees and Administration	(0.1)	(0.2)	(*)	(*)	-	-	(0.1)	(0.2)
Appropriations: Tax Holidays & Admin	(0.7)	-	(0.1)	(0.1)	-	-	(0.8)	(0.1)
Corp Income Tax: Payment Due Date	83.9	-	-	-	-	-	83.9	-
Cigarette Tax: Biomedical Research	2.5	2.5	(2.5)	(2.5)	-	-	-	-
2017-18 Total	(238.3)	(212.0)	(2.6)	(2.6)	(55.6)	(61.4)	(296.5)	(276.0)
Non-recurring Impacts After FY 2017-18	Cash		Cash		Cash		Cash	
Sales/Corporate/Ins. Prem.: Comm Cont Tax Credit Extension (1 Yr)	(22.5)	-	(*)	-	(2.4)	-	(24.9)	-
Corp Income Tax: R&D Credit Increase	(3.1)	-	-	-	-	-	(3.1)	-
Sales Tax: Business Rent/1.5% for 2 yrs	(454.6)				(58.7)		(513.3)	-
Bill Total	(718.5)	(212.0)	(2.6)	(2.6)	(116.7)	(61.4)	(837.8)	(276.0)
								Recurring + Pure Nonrecurring (2) = (953.9)
<p>(*) Impact less than \$50,000; (**) Impact is indeterminate. (1) Ad valorem tax impacts assume current tax rates. (2) Recurring tax cut total (excl. appropriations) = -\$275.9 million Pure nonrecurring tax cuts in FY 2017-18= -\$136.7 million Pure nonrecurring tax cuts after FY 2017-18 = <u>-\$541.3 million</u> -\$953.9 million</p>								

I. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18(b), of the Florida Constitution may apply because the provision in the bill that provides a property tax discount for certain property used to provide affordable housing may reduce county and municipal government authority to raise revenue. The bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The DOR has general rulemaking authority to create rules governing the taxes it administers. The bill authorizes DOR to adopt emergency rules to implement the changes in the related to the back to school sales tax holiday, the disaster preparedness sales tax holiday, and the veterans' sales tax holiday. The bill also provides a grant of rulemaking authority to implement the veterans' sales tax holiday.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 5, 2017, the Ways and Means Committee adopted an amendment to the bill and reported the bill favorably. The amended bill differs from the bill as published by correcting a drafting issue in the bill as published that inadvertently eliminated an exemption for uniform rental and linen supply companies from a tax on dry cleaning facilities.

The analysis is drafted to reflect the bill as amended.