



The Florida Senate

Interim Project Report 2005-211

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Committee on Government Efficiency Appropriations

Senator Jeffrey H. "Jeff" Atwater, Chair

CERTAIN INTANGIBLE PERSONAL PROPERTY EXEMPT FROM ANNUAL AND NONRECURRING TAXES, s. 199.185(1)(N), F.S.

SUMMARY

During the 2000 Regular Session, a number of bills were amended onto House Bill 509. The amended bill passed the Legislature and, upon approval by the Governor, became ch. 2000-312, Laws of Florida. One of the bills amended onto HB 509, (HB 71, relating to the county public hospital surtax) contained a repealer section that, once amended into HB 509, was not limited in its scope. The repealer section states that "(t)he provisions of this act shall be reviewed by the Legislature prior to October 1, 2005, and shall be repealed on that date unless otherwise reenacted by the Legislature." This repealer section creates the current situation where a number of provisions in the Florida Statutes will be repealed in 2005 unless they are reenacted.

Section 199.185(1)(n), F.S., which provides an exemption from the tax on intangible personal property, was amended by s. 5 of ch. 2000-312, Laws of Florida, and is set to repeal October 1, 2005, unless it is reenacted by the Legislature.

BACKGROUND

Section 199.185(1)(n), F.S., provides an exemption from the tax on intangible personal property for a leasehold estate in governmental property where the lessee is required to furnish space on the leasehold estate for public use by governmental agencies at no charge to those agencies. The exemption was given a retroactive application, but did not reopen or extend a closed period of nonclaim under s. 215.26, F.S., or any other statute. This exemption will be repealed on October 1, 2005, unless it is reenacted by the Legislature.

In general, leaseholds in real property owned by a government entity are subject to an annual tax on the value of the leasehold. Section 199.032, F.S., imposes a 1 mill tax on intangible personal property that has

taxable situs in the state. Section 199.023(1)(d), F.S., includes governmental leaseholds in the definition of intangible personal property subject to tax. Section 199.292(1), F.S., provides that revenues derived from the tax on leaseholds shall be returned to the local school board for the county in which the property is located. The exemption created by ch. 2000-312, Laws of Florida, was expected to affect only the leasehold of a specific radio station in Miami-Dade County, according to the staff analysis of HB 509, which became ch. 2000-312, Laws of Florida.

METHODOLOGY

Revenue collected by county from intangibles tax on government leaseholds was reviewed to see if the impact of this legislation can be detected.

FINDINGS

According to the Department of Revenue, there is no way to determine how many leases of government property have a requirement that the lessee provide space to government as a part of the lease contract. Persons that are exempt from payment of the intangible personal property tax are not required to report to or notify the Department of Revenue.

Revenue from this source tends to fluctuate from year to year, and it is not possible to observe the impact of this provision in the annual county-by-county collection data.

RECOMMENDATIONS

It is the recommendation of this report that the repeal of s. 5 of ch. 2000-312, Laws of Florida, should be abrogated by repealing s. 11 of that act, which provides for the repeal.