



The Florida Senate

Interim Project Report 2005-212

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Committee on Government Efficiency Appropriations

Senator Jeffrey H. "Jeff" Atwater, Chair

RESPONSIBILITY FOR AUDITING THE CONVENTION DEVELOPMENT TAX RECORDS, s. 212.0305(5)(C), 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 into 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states that "[t]he provisions of this act shall be reviewed by the Legislature prior to October 1, 2005, and shall be repealed on that date unless otherwise reenacted by the Legislature." This repealer section creates the current situation where a number of provisions in the Florida Statutes will be repealed in 2005 unless reenacted by the Legislature.

Section 212.0305(5)(c), F.S., which relates to auditing of records relating to the local administration of the Convention Development Tax, was amended by s. 7 of ch. 2000-312, Laws of Florida, and is set to repeal October 1, 2005, unless reenacted by the Legislature.

BACKGROUND

Chapter 83-356, Laws of Florida, created the "Convention Development Tax Act" which became s. 212.0305, F.S. Section 212.0305, F.S., imposes tourist-related or "bed taxes" on transient rentals. Transient rentals involve the rental or lease of any living quarters or accommodations in any hotel, apartment, motel, rooming house, mobile home park, recreational vehicle park, or condominium for a term of 6 months or less.¹ The principal purpose of the convention development tax is to promote tourism and the use of hotel facilities by facilitating the improvement and construction of

convention centers.² Each county operating under a home rule charter, as defined in s. 125.011(1), F.S., may levy the tax at 3 percent (Miami-Dade County). Each county operating under a consolidated government may levy the tax at 2 percent (Duval County). Each county chartered under Article VIII of the State Constitution that had a tourist advertising special district on January 1, 1984, may levy the tax at 2 percent (Volusia County). Section 11 of ch. 87-99, Laws of Florida, created subsection (5) of s. 212.0305, F.S., authorizing a county levying a convention development tax to adopt an ordinance providing for the collection and administration of the tax on a local basis. Miami-Dade County has self-administered the tax since April 1, 1988; Duval County since December 1, 1990; and Volusia County since April 1, 1990.³ Pursuant to s. 32 of ch. 89-356, Laws of Florida, a county adopting an ordinance providing for the collection and administration of the tax on a local basis shall also adopt an ordinance electing either to assume all responsibility for auditing the records and accounts of dealers, and assessing, collecting, and enforcing payments of delinquent taxes, or to delegate such authority to the Department of Revenue. Section 7 of ch. 2000-312, Laws of Florida, authorizes counties that elect to assume all such auditing responsibility to use certified public accountants licensed in Florida in the administration of its statutory duties and responsibilities. Such certified public accountants are bound by the same confidentiality requirements and subject to the same penalties as the county under s. 213.053, F.S. Pursuant to s. 11 of ch. 2000-312, Laws of Florida, s. 212.0305(5)(c), F.S., is set to repeal October 1, 2005, unless otherwise reenacted by the Legislature.

¹ Section 212.03(1), F.S.

² Section 212.0305(2), F.S.

³ 2004 Florida Tax Handbook

METHODOLOGY

The legislative history of s. 212.0305(5)(c), F.S., was researched. The Department of Revenue was asked to share information on the use of CPA's by counties that self-administer the convention development tax. The President of the Florida Tourist Development Tax Association was contacted for his input on the repeal this provision.

Findings

As of this time, none of the three counties levying the convention development tax - Miami-Dade, Duval and Volusia – are using CPA's to audit the convention development tax. All three counties currently have their own audit staffs. According to Art Heintz, Audit Collection Supervisor, Volusia County, and current President of the Florida Tourist Development Tax Association, it is important to continue the authorization for convention development tax counties to use CPA's to audit the tax. Even though all three counties currently have their own audit staff, if that should change in the future, then the convention development tax counties would be able to utilize private CPA firms to audit their convention development taxes.

RECOMMENDATIONS

It is the recommendation of this report to abrogate the repeal of s. 7 of ch. 2000-312, Laws of Florida. Legislation should be drafted to repeal s. 11 of ch. 2000-312, Laws of Florida, which provides for the repeal of s. 7 of ch. 2000-312, Laws of Florida.