



The Florida Senate

Interim Project Report 2005-213

November 2004

Committee on Government Efficiency Appropriations

Senator Jeffrey H. "Jeff" Atwater, Chair

DEPARTMENT OF REVENUE TO PASS UPON AND ORDER REFUNDS, S. 197.182(1)(A),(B),(3), 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states that "(t)he provisions of this act shall be reviewed by the Legislature prior to October 1, 2005, and shall be repealed on that date unless otherwise reenacted by the Legislature." This repealer section creates the current situation where a number of provisions in the Florida Statutes will be repealed in 2005 unless they are reenacted.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 197.182(1), F.S., which requires the Department of Revenue to pass upon and order refunds of property tax except in specific circumstances, was amended by s. 1 of ch. 2000-312, Laws of Florida, and is set to repeal October 1, 2005, unless reenacted by the Legislature.

BACKGROUND

Section 197.182(1), F.S., requires the Department of Revenue to pass upon and order refunds of property taxes except in specific circumstances. Before the enactment of Chapter 2000-312, F.S., the statute provided an exception to this requirement for refunds that have been ordered by a court and those refunds that do not result from changes made in the assessed value on a tax roll certified to the tax collector. It also provided that overpayments over \$5 resulting from taxpayer error were automatically refunded to the taxpayer if they were determined within the 4-year period of limitation. Chapter 2000-312, Laws of Florida, added another exception to the requirement that the department approve a refund of taxes. The statute currently provides that when a payment has

been made in error by a taxpayer to the tax collector because of an error in the tax notice sent to the taxpayer, refund must be made directly by the tax collector and does not require approval by the department. The taxpayer may request that the amount paid in error be applied to the taxes for which the taxpayer is liable. Subsection (1) of s. 197.182, F.S., as amended by s. 1 of ch. 2000-312, Laws of Florida, will be repealed as of October 1, 2005, unless it is reenacted by the Legislature.

METHODOLOGY

The Department of Revenue was asked whether any statistics were available to estimate the impact of this change, and whether, in their professional opinion, it had any significant impact.

FINDINGS

The Department of Revenue's Division of Property Tax does not have a record of how many refunds it reviewed and approved prior to the enactment of Ch. 2000-312, Laws of Florida, which had been made as the result of an erroneous tax notice. According to department staff, however, virtually all refunds affected by this legislation would already have been covered by the exception already in the law, that is, they were ordered by a court or they were not the result of a change in assessed value on a certified tax roll.

RECOMMENDATIONS

It is the recommendation of this report that the repeal of s. 1 of ch. 2000-312, Laws of Florida, should be abrogated by repealing s. 11 of that act, which provides for the repeal.