

**STORAGE NAME:** h0949b.ft

**DATE:** April 18, 1997

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
FINANCE AND TAXATION  
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**BILL #** HB 949

**RELATING TO:** Tangible Personal Property/Dealers

**SPONSOR(S):** Representatives Brown, Ogles, Arnall, Barreiro, Tobin, and Greene

**STATUTE(S) AFFECTED:** Amends Chapter 212.06, F.S.

**COMPANION BILL(S):** SB 1392 identical

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE YEAS 9 NAYS 0
- (2) FINANCE AND TAXATION YEAS 10 NAYS 0
- (3) GENERAL GOVERNMENT APPROPRIATIONS
- (4)
- (5)

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**I. SUMMARY:**

Pursuant to chapter 212, F.S., donations of taxable tangible personal property made to any person, to a federal or state governmental unit, or to any religious, educational or charitable institution are exempt from state sales tax; however, the donor is required to pay tax on the acquisition cost of the tangible personal property since the donor is the consumer thereof, unless the donor is an exempt entity under chapter 212, F.S.

The tax levied pursuant to chapter 212, F.S., is 6% of the business's acquisition cost of the item.

This bill exempts such donations from the state sales tax when they are donated to nonprofit charitable organizations or institutions that have a tax exempt certificate.

This bill also provides that any tax on such donations that was uncollected prior to the enactment of this bill shall not be due from any dealer.

The total fiscal impact of this bill will be (\$1.9) million in FY 1997-98 and (\$2.2) million for FY1998-99. There will be a (\$1.6) million impact to General Revenue in FY1997-98 and (\$1.9) million for FY1998-99. There will be a (\$.3) million impact to local governments in both FY 1997-98 and 1998-99.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

For the privilege of engaging in business, Section 212.05(1)(b), F.S., specifically levies the State's sales and use tax on each taxable transaction as follows:

At the rate of six percent of the cost price of each item or article of tangible personal property when the same is not sold but is used, consumed, distributed, or stored for use or consumption in this state.

According to the Department of Revenue, for the calendar year 1996, sales tax exemption certificates were renewed for 2503 applicants and revoked for 1347. Of 3430 new applications for exemption, 2428 were approved and 1002 were denied.

B. EFFECT OF PROPOSED CHANGES:

This bill will exempt donated items of tangible personal property from the state sales tax when they are donated by registered sales tax dealers to nonprofit organizations or institutions which hold a Consumer Certificate of Exemption. Further, it provides that the exemption applies retroactively to dealers who have failed to remit tax on such items.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

The Department of Revenue would need to promulgate a rule prescribing an affidavit or certificate to be executed by the parties to donor transactions in order to document such transactions for audit purposes.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

None.

- (2) what is the cost of such responsibility at the new level/agency?

N/A.

- (3) how is the new agency accountable to the people governed?

N/A.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

This bill creates an use tax exemption for inventory items which a dealer donates to nonprofit organizations and institutions. The Revenue Estimating Conference has yet to determine the fiscal impact of this bill.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

N/A.

- (1) Who evaluates the family's needs?

N/A.

- (2) Who makes the decisions?

N/A.

- (3) Are private alternatives permitted?

N/A.

- (4) Are families required to participate in a program?

N/A.

- (5) Are families penalized for not participating in a program?

N/A.

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A.

(2) service providers?

N/A.

(3) government employees/agencies?

N/A.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1.** creates new section, 212.06(13), F.S., that provides that taxes imposed by chapter 212, F.S., shall not apply to donated items of tangible personal property when those items are donated by a registered dealer to a non-profit organization or institution that holds a current consumer certificate of exemption issued by the Department of Revenue.

**Section 2.** provides that taxes that are imposed before the effective date of this act by chapter 212, F.S., but not collected on transaction exempted in 212.06(13) shall be exempt.

**Section 3.** provides that this act shall take effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The Department of Revenue will incur minimal costs associated with developing rules and forms.

2. Recurring Effects:

	<u>FY1997-98</u>	<u>FY 1998-99</u>
General Revenue	(1.6M)	(\$1.9m)
Solid Waste Management Trust Fund	(*)	(*)

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

	<u>FY1997-98</u>	<u>FY 1998-99</u>
General Revenue	(1.6M)	(\$1.9m)
Solid Waste Management Trust Fund	(*)	(*)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A.

2. Recurring Effects:

	<u>FY1997-98</u>	<u>FY 1998-99</u>
Local Government Half-Cent Tax	(.2m)	(.2m)
Local Option Sales Tax	(.1m)	(.1m)

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

The tax disincentives associated with a donation of inventory by a business to a charitable organization or institution would be removed.

3. Effects on Competition, Private Enterprise and Employment Markets:

None

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE:  
Prepared by: \_\_\_\_\_ Legislative Research Director:

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