

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 27, 1998 Revised: 04/27/98 _____

Subject: Sales Tax Exemption/Chamber of Commerce

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Keating</u>	<u>Beggs</u>	<u>WME</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>WM</u>	<u>Withdrawn</u>
3.	_____	_____	<u>CM</u>	<u>Withdrawn</u>
4.	<u>Keating</u>	<u>Smith</u>	<u>WM</u>	<u>Fav/1 amendment</u>
5.	_____	_____	_____	_____

I. Summary:

The bill provides an exemption from chapter 212, Florida Statutes, for certain transactions conducted by chambers of commerce. The exemption provided in the bill applies retroactively back to December 31, 1994, for all transactions where taxes were not actually paid or collected before that date. The bill also provides for a refund of such taxes paid. Purchases and sales by chambers occurring after December 31, 1994 are subject to the taxes imposed by chapter 212, Florida Statutes.

II. Present Situation:

Florida's sales and use tax, pursuant to chapter 212, F.S., is a tax of general applicability which applies to receipts from the sales, storage and use of all tangible personal property unless specifically exempt. Generally, it is the policy of the state to tax every person who engages in the business of selling tangible personal property at retail, renting or furnishing things or services, storing for use or consumption, and leasing or renting tangible personal property. The rate of taxation in Florida is 6 percent of the sales or use price of each item or article of tangible personal property when sold at retail, computed on each taxable sale or use for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

Purchases, including leases of, and licenses to use, both tangible personal property and real property, by chambers of commerce are subject to sales or use tax, except items bought for resale, or unless otherwise specifically exempt.

Sales by chambers of commerce are, with some exceptions, such as membership dues, admissions to educational seminars, or occasional or isolated sales, are subject to sales tax.

There are approximately 250 chambers of commerce in Florida, including the Florida Chamber of Commerce located in Tallahassee, Florida. Purchases and sales by these chambers are currently subject to the 6 percent state sales and use tax. Depending on the nature of the event, some chamber events (e.g., annual banquets, seminars) that charge an entrance fee may also be subject to the 6 percent state sales and use tax.

III. Effect of Proposed Changes:

The bill provides that the following “transactions” conducted by a not-for-profit chamber of commerce are exempt from the sales and use tax applied in chapter 212, F.S., for tax not actually paid or collected before December 31, 1994:

- Purchases for use in operations to foster business
- Dues and fees to members
- Conduct of events for admission
- Charges to businesses for participation in trade shows and similar events
- Circulation of printed materials, including newspapers and newsletters
- Business seminars and events to assist businesses with their operations

In addition, any chamber of commerce which paid tax on these transactions before December 31, 1994, is entitled to a refund of those taxes. A refund claim must be filed on or before July 1, 1999.

Revenues derived from resales of materials routinely and directly available to any person without the assistance of a chamber of commerce do not qualify as exempt transactions.

Transactions occurring after December 31, 1994 are subject to the sales and use tax applied by chapter 212, F.S.

The bill shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill initially falls under subsection (b) of s. 18, Art. VII, State Constitution. Subsection (b) requires a two-thirds vote of the membership of each house in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989 to raise revenues in the aggregate. By adding an exemption to the state sales tax, the bill has the effect of adding an exemption to the local option county sales surtax. Since the annual local

revenue loss is estimated to be less than \$1.4 million, the bill will be exempt from the requirements of subsection (b) due to the insignificant negative fiscal impact as permitted under subsection (d) of s. 18, Art. VII. (See subsection (d) of s. 18, Art. VII, State Constitution, for various types of general laws, including those with insignificant fiscal impact.)

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

During the 1997 Legislative Session, the Revenue Estimating Conference estimated the fiscal impact of providing a retroactive sales tax exemption to chambers of commerce and refunds of taxes paid before December 31, 1994, to be a loss of \$1.6 million in revenue. This revenue reduction due to the refunds would be spread over 2 fiscal years with half occurring each year.

Issue/Fund	1998-1999							
	General Revenue		Trust		Local		Total	
	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring
Chamber of Commerce	\$ (0.7)	0.0	\$ (*)	0.0	\$ (0.1)	0.0	\$ (0.8)	0.0

* Insignificant

B. Private Sector Impact:

The chambers of commerce will be able to claim amnesty from those unpaid taxes that will be exempted, as well as, receive a refund for the taxes that have already been remitted.

C. Government Sector Impact:

The Department of Revenue will have to issue refund requests of qualified chambers of commerce.

VI. Technical Deficiencies:

Section 215.26, F.S., provides for either a 3-year or 5-year time period for filing for a refund with the Department of Revenue. If the purpose of the bill is to create a single deadline of July 1, 1999, for chambers of commerce to file refund claims for taxes paid any time prior to 1995, then the bill should clearly state that its July 1, 1999, deadline for filing refund applications applies in lieu of the 3-year or 5-year time period provided in s. 215.26, F.S.

VII. Related Issues:

The provisions of this bill were passed by the 1997 Legislature in CS/SB 1660, which was vetoed by the Governor.

VIII. Amendments:

#1 by Ways and Means:

Clarifies that the July 1, 1999, deadline for filing refund applications applies in lieu of the 3-year or 5-year time period provided in s. 215.26, F.S.