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DATE: March 22, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS**

BILL #: HB 1737

RELATING TO: Ad Valorem Taxation

SPONSOR(S): Representative Brummer

COMPANION BILL(S): SB 1792 (c)

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

- (1) COMMUNITY AFFAIRS
 - (2) FINANCE & TAXATION
 - (3) GENERAL APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

This bill requires the property appraiser to grant a 30-day extension for filing a tangible personal property tax return.

The bill authorizes the property appraiser to grant an additional discretionary extension of 15 days.

The bill prohibits the property appraiser from requiring a request for extension to be submitted more than 10 days prior to the tax return due date.

The bill revises the requirements relating to extension requests.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Taxation and finance issues are addressed in chapters 192 through 221, (Title XIV), Florida Statutes. Section 192.001, Florida Statutes, defines tangible personal property as "all goods, chattels, and other articles of value . . . capable of manual possession and whose chief value is intrinsic to the article itself." A more descriptive definition of tangible personal property is any personal property which may be seen, perceived by the senses, weighed, measured, or touched. However, stocks, bonds, notes, securities, or other obligations are not tangible personal property.

Currently under 193.063, Florida Statutes, a property appraiser may issue an extension for filing a tangible personal property tax return. This extension may *be up to* 45 days and is at the property appraiser's discretion. A request for an extension must be made in time to allow the property appraiser to review the request and act on it prior to the tax return due date. In addition, the request for an extension must include the taxable entity's name, its tax identification number, and the reason why an extension should be granted.

Pursuant to section 193.072, Florida Statutes, the penalty for filing a return after the due date is 5 percent of the total tax levied against the property covered by the return for that year, for each month that a return is filed after the due date, not to exceed 25 percent.

B. EFFECT OF PROPOSED CHANGES:

This bill requires that the property appraiser grant an extension for filing a tangible personal property tax return for 30 days if a request is submitted. The bill authorizes an additional discretionary extension of up to 15 additional days. This is different than current law, as the property appraiser now has complete discretion to grant up to a 45-day extension. Although this bill does not change the maximum amount of days allowed for the extension (45 days), it does limit the property appraiser's discretion to only 15 days. Upon filing a request for an extension, a taxpayer will receive, at a minimum, a 30-day extension. This period may be extended for an additional 15 days at the discretion of the property appraiser.

The bill prohibits the property appraiser from requiring a request for extension more than 10 days prior to the tax return's due date. Although section 193.063, Florida Statutes, provides that an extension request must be submitted in time to allow the property appraiser to review the request and act on it prior to the tax return due date, this bill prohibits property appraisers from requiring that the request be submitted more than 10 days prior to the due date.

The bill revises the requirements relating to the extension request by allowing any or all of the following information to be included in the request: name of the taxable entity, tax identification number, and the reason a discretionary extension is granted. The required information is at the option of the property appraiser.

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?

No.

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

Yes. An automatic 30-day extension effectively moves the tax return date from April 1 to May 1. Since counties must have their preliminary tax roll prepared by July 1, property appraisers will be required to do 100 percent of the required work in 66 percent of the time (60 days rather than 90 days) without any additional people.

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

Yes. The bill requires a property appraiser to grant a 30-day extension for filing a tangible personal property tax return. The statute previously authorized the property appraiser to grant up to 45 days, at his discretion, upon a request for an extension. Under the bill, a 30-day extension will be granted upon submitting a request.

- 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?

N/A

- (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?

No.

- 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?

No.

- 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:

- (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. STATUTE(S) AFFECTED:

Section 193.063, Florida Statutes

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends section 193.063, Florida Statutes, to require the property appraiser to grant a 30-day filing extension, upon filing a request for an extension, for a tangible personal property tax return; authorizes an additional discretionary 15-day extension; prohibits the property appraiser from requiring that an extension request be filed more than 10 days prior to the return due date; revises requirements of specific information in the extension request.

Section 2: Provides effective date of January 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Indeterminable.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminable. This bill has been submitted to the Revenue Impact Conference to determine possible fiscal impacts on counties.

2. Recurring Effects:

Indeterminable. This bill has been submitted to the Revenue Impact Conference to determine possible fiscal impacts on counties.

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:

None.

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

None.

D. FISCAL COMMENTS:

An automatic extension may have a fiscal impact on county tax rolls as it may cause some local governments to be unable to have its preliminary tax rolls certified by July 1, the statutory deadline for preliminary tax roll. The reason for this is that it takes, at a minimum, approximately 2 months for the property appraiser to process and evaluate the tax returns.

With the automatic extension, taxpayers can avoid filing their returns until May 1, which delays the property appraiser from certifying its preliminary tax rolls July 1. Although the absolute "drop dead" date is not until mid-August, the date when millage notices are sent out, it is necessary for the property appraiser to have all returns processed before then because value can not normally be added after the millage notice is sent out. Returns received after June 1 are most likely not in time to be audited for the July 1 deadline, especially since property appraisers must have their Estimate of Value completed by the second or third week of June in order to have the figures ready by July 1. The automatic extension may either cause property appraisers to be unable to thoroughly review the returns, as they currently do, or force them to hire additional people to process the tax returns in order to meet the end of the fiscal year. For example, last year, Volusia County had approximately 45,000 tax returns filed. Out of those 45,000, its property appraiser received 700 requests for extension, and granted all but a few. Extensions for 20 days were normally granted, unless there were extenuating circumstances and a longer extension was granted. Extensions for 45 days were not normally granted due to the July 1 deadline.

Dade County, a large county, had approximately 108,000 tax returns filed last year. Out of the 108,000 returns, its property appraiser received approximately 210 applications for extensions, and granted 105 of them. The remaining requests were denied mostly because they were not for cause and were form letters asking for extensions. Even with the limited number of extensions, the work load for the Dade County property appraiser was substantial.

Polk County had 19,627 tax returns mailed in 1998. Only 10,163 returns (49%) were filed by the statutory deadline of April 1. As of June 1, the total returns filed had increased to 15,527. By June 1, 21 percent of tax returns had not been filed.

If there is an automatic extension, there is a possibility that a greater number of taxpayers will ask for the extension, causing the property appraiser to have less time to process and evaluate more returns. Inevitably, this may lead to property appraisers being required to increase its staff in order to meet the July 1 deadline.

In addition to the potential need for more staff, counties may lose a substantial amount of revenue generated from penalties for late filing of tangible tax returns. The penalty for filing a return after the due date is 5 percent of the total tax levied against the property covered by the return for that year, for each month that a return is filed after the due date, not to exceed 25 percent. Last year, penalties for late filings of tangible tax returns in Polk County amounted to approximately \$458,000.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

Indeterminable. This bill has been referred to the Revenue Impact Conference to determine possible financial impacts to counties.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

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

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

V. COMMENTS:

The Property Appraisers Association of Florida does not oppose this bill.

The Florida Association of Property Appraisers is working with CPA representatives in order to address the problems that CPAs are having with the current system. The Association hopes to develop a compromise with the CPAs on this issue which will be beneficial to both property appraisers and accountants.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON Community Affairs:

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