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DATE: March 11, 2002

HOUSE OF REPRESENTATIVES
FISCAL RESPONSIBILITY COUNCIL
ANALYSIS

BILL #: CS/HB 121
RELATING TO: Corporate Income Tax
SPONSOR(S): Fiscal Responsibility Council and Representative Bennett
TIED BILL(S): None

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

- (1) AGRICULTURE AND CONSUMER AFFAIRS (CCC) YEAS 7 NAYS 0
- (2) FISCAL POLICY AND RESOURCES YEAS 11 NAYS 0
- (3) FISCAL RESPONSIBILITY COUNCIL YEAS 13 NAYS 7
- (4)
- (5)

I. SUMMARY:

For purposes of determining corporate income tax, this bill changes how the apportionment of income formula applies to companies who sell frozen fruit, fruit juices, and vegetables, for shipment to locations outside the state. Currently, sales delivered within the state for delivery outside the state, by an entity other than a common or contract carrier, are considered Florida sales for purposes of the income tax apportionment formula. This bill applies the "ultimate destination" test for purposes of income apportionment, when that income is derived from the sales of frozen fruits, fruit juices, and vegetables shipped out of the state. This means that regardless of the method of shipment, if the ultimate destination of the product being shipped is to a destination out of the state, the sale shall not be deemed to occur in this state, and the income therefrom shall be considered out of state income for the apportionment formula. This portion of the bill is estimated to reduce receipts of the General Revenue Fund by \$0.1 million annually.

Under current law, scholarships offered under the corporate income tax credit program are limited to those children qualifying for free or reduced-price school lunches and who either attended public school or received a scholarship during the prior fiscal year. This bill expands the eligibility criteria to include children who meet the income criteria and are eligible to enter the kindergarten or the first grade. This portion of the bill is expected to reduce General Revenue receipts by \$1.4 million in FY 2001-02; \$10 million in FY 2002-03; and \$14.6 million in FY 2003-04.

This bill has an effective date of upon becoming law and shall apply to tax years beginning on or after January 1, 2002.

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SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Currently, Section 220.15(5)(b)1., F.S., specifies that delivery of goods to a port in Florida for ultimate shipping, other than by a common or contract carrier, to another state or country shall be considered as a sale within the state for purposes of apportioning income when determining the corporate income tax. As a result, unless a common or contract carrier is employed, when frozen fruit, fruit juice, or vegetable product is delivered to a port, even though its final and ultimate destination is a foreign nation or another state, the value of the product must be included in the income tax apportionment formula as a Florida sale.

Section 220.187, F.S., provides for a 100 percent corporate income tax credit for contributions to nonprofit scholarship-funding organizations. Scholarships offered under this program are limited to students who qualify for free or reduced price school lunches under the National School Lunch Act and who were counted as a full-time equivalent student during the previous state fiscal year for purposes of state per-student funding or received a scholarship under this program in the previous school year.

Section 220.331, F.S., provides that the first two payments of estimated tax pursuant to s. 200.33, F.S., shall not be affected by any contribution made to a nonprofit scholarship-funding organization. This is an erroneous citation; s. 200.33, F.S., does not exist.

C. EFFECT OF PROPOSED CHANGES:

This bill stipulates that for the frozen fruit, fruit juice, and vegetable industry, regardless of the method of shipment or the f.o.b. point, if the ultimate destination of the product is outside of this state, the sale of that product shall not be deemed to occur in this state for purposes of the corporate income tax apportionment formula.

This bill expands the eligibility criteria to include children who meet the income criteria and are eligible to enter the kindergarten or the first grade. In addition, provisions limiting the applicability of the credit on the first and second estimated payment of corporate income tax are repealed.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 amends s. 220.15, F.S., to revise the conditions for determining when sales of tangible personal property occur in this state for industries in SIC Industry Number 2037. (SIC Industry Number 2037 consists of frozen fruit, fruit juices and vegetables.)

Section 2 amends s. 220.187, F.S., to expand the definition of "qualified student," for purposes of granting tax credits for contributions to eligible non-profit scholarship funding organizations, to include students who meet the income criteria and who are eligible to enter kindergarten or first grade.

Section 3 repeals a limitation on the effect of contributions to eligible non-profit scholarship funding organizations on the first two estimated corporate income tax payments.

Section 4 provides that this act is effective upon becoming a law and applies to tax years beginning on or after January 1, 2002.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The overall fiscal impact of this bill is expected to be reductions in General Revenue receipts by \$1.4 million in FY 2001-02; \$10.1 million in FY 2002-03; and \$14.7 million in FY 2003-04, and \$0.1 million annually thereafter..

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Companies selling frozen fruits, fruit juices, and vegetables for shipment outside of the state will no longer have to count that sale as a Florida sale when apportioning income for corporate income tax purposes. This may result in an increase in the competitiveness of both Florida producers and Florida ports.

D. FISCAL COMMENTS:

None.

III. 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 revenue in the aggregate.

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

This bill does not reduce any state tax shared with counties or municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

None

C. OTHER COMMENTS:

None

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 27, 2002, the Committee on Fiscal Policy and Resources adopted an amendment which is traveling with the bill. The amendment addresses the corporate income tax credit for contributions to nonprofit scholarship-funding organizations. The amendment makes two changes. First, it adds children who are eligible to enter kindergarten or first grade and are eligible for a free or reduced-price school lunch to the definition of "qualified student". This portion of the amendment is expected to reduce General Revenue receipts by \$1.4 million in FY 2001-02; \$10 million in FY 2002-03; and \$14.6 million in FY 2003-04. Second, it removes a provision of the 2001 legislation which specified that the credit provided to corporate income tax taxpayers could not be used to reduce the first two estimated payments due in any tax year.

On March 8, 2002, the Fiscal Responsibility Council approved a council substitute for the bill.

VI. SIGNATURES:

COMMITTEE ON AGRICULTURE AND CONSUMER AFFAIRS (CCC):

Prepared by:

Staff Director:

Debbi Kaiser

Susan D. Reese

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AS REVISED BY THE COMMITTEE ON FISCAL POLICY AND RESOURCES:

Prepared by:

Staff Director:

Kama Monroe

Lynne Overton

AS FURTHER REVISED BY THE FISCAL RESPONSIBILITY COUNCIL:

Prepared by:

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Joe McVaney

David Coburn