

Committee Substitute for Senate Bill No. 2496

An act relating to the tax on intangible personal property; amending s. 199.143, F.S.; revising the method of calculating the tax on future advances; amending s. 199.185, F.S.; amending the exemption that applies to certain charitable trusts; amending s. 199.185, F.S.; amending exemptions from taxes imposed under ch. 199, F.S.; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 199.143, Florida Statutes, is amended to read:

199.143 Future advances.—

(1) Except as provided in subsection (3), if the mortgage, deed of trust, or other lien is recorded or executed after December 31, 1985, and secures ~~a line of credit or otherwise secures~~ future advances, as provided in s. 697.04, the nonrecurring tax shall initially be paid on the initial obligation secured, excluding future advances. Each time ~~an additional amount is borrowed or~~ a future advance is made, additional nonrecurring tax shall be paid on the amount of the advance. However, any increase in the amount of original indebtedness caused by interest accruing under an adjustable interest rate obligation having an initial interest rate adjustment interval of not less than 6 months shall be taxable as a future advance only to the extent such increase is a computable sum certain when the original indebtedness is incurred.

(2) The trustee, if a deed of trust, or the owner of the obligation, if a mortgage or other lien, making the advance shall pay the additional tax to the clerk to whom the initial tax was paid. The clerk shall note the amount received upon the instrument, if one has been recorded, or shall otherwise give a receipt.

(3) ~~If the property subject to the mortgage, deed of trust, or other lien which secures a line of credit is a residence of the borrower at the time the mortgage, deed of trust, or other lien is created, then the nonrecurring tax shall be paid as provided in s. 199.135 on the maximum amount of the line of credit, except as limited by s. 199.133, and no further nonrecurring tax shall be due on any borrowing under the line of credit. As used in this subsection, "residence" includes only a dwelling unit that is a primary, secondary, or vacation home of the borrower, who is a natural person, and that has been primarily occupied for residential or recreational purposes at any time during the immediately preceding 1-year period by the borrower or by the borrower's spouse or children. The term excludes any dwelling that is used primarily as a rental unit. Use by a member of the borrower's immediate family for consideration is deemed rental of the dwelling unit. Notwithstanding the fact that title to a dwelling unit is held by a trustee, the dwelling unit shall be considered a residence of the borrower and may be used as security for a line of credit under this subsection, as long as the dwelling unit is a residence of the borrower, as defined in this subsection.~~

Section 2. Effective January 1, 2000, subsection (4) of section 199.185, Florida Statutes, 1998 Supplement, is amended to read:

199.185 Property exempted from annual and nonrecurring taxes.—

(4) Charitable trusts, 95 percent of the income of which is paid to organizations exempt from federal income tax pursuant to s. 501(c)3 of the Internal Revenue Code, shall be exempt from ~~1 mill~~ of the tax imposed in s. 199.032.

Section 3. Paragraph (j) of subsection (1) of section 199.185, Florida Statutes, 1998 Supplement, is amended to read:

199.185 Property exempted from annual and nonrecurring taxes.—

(1) The following intangible personal property shall be exempt from the annual and nonrecurring taxes imposed by this chapter:

(j) Units of a unit investment trust and shares or units of, or other undivided interest in, a business trust organized under an agreement, indenture, or declaration of trust and registered under the Investment Company Act of 1940, as amended, shall be exempt if at least 90 percent of the net asset value of the portfolio of assets corresponding to such shares, units, or undivided interests is invested in assets that are exempt from the tax imposed by s. 199.032 whose portfolio of assets consists solely of assets exempt under this section.

Section 4. This act shall take effect July 1, 1999.

Approved by the Governor June 8, 1999.

Filed in Office Secretary of State June 8, 1999.