

House Bill No. 209

An act relating to the annual intangible personal property tax; repealing ss. 199.012, 199.023, 199.032, 199.033, 199.042, 199.052, 199.057, 199.062, 199.103, 199.1055, 199.106, 199.175, and 199.185, F.S., relating to the annual intangible personal property tax; amending s. 199.303, F.S.; providing additional legislative intent relating to the annual intangible personal property tax; amending ss. 28.35, 192.0105, 192.032, 192.042, 192.091, 193.114, 196.015, 196.199, 199.133, 199.183, 199.218, 199.232, 199.282, 199.292, 212.02, 213.053, 213.054, 213.27, 220.1845, 376.30781, 493.6102, 650.05, 655.071, and 733.702, F.S., to conform provisions to the repeal of the annual intangible personal property tax; providing for application of certain collection, administration, and enforcement provisions to taxation of certain leaseholds; authorizing the Department of Revenue to adopt emergency implementing rules for a certain time; providing effective dates.

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

Section 1. Sections 199.012, 199.023, 199.032, 199.033, 199.042, 199.052, 199.057, 199.062, 199.103, 199.1055, 199.106, 199.175, and 199.185, Florida Statutes, are repealed.

Section 2. Paragraph (c) of subsection (1) of section 28.35, Florida Statutes, is amended to read:

28.35 Florida Clerks of Court Operations Corporation.—

(1)

(c) ~~For the purposes of s. 199.183(1),~~ The corporation shall be considered a political subdivision of the state and shall be exempt from the corporate income tax. The corporation is not subject to the procurement provisions of chapter 287 and policies and decisions of the corporation relating to incurring debt, levying assessments, and the sale, issuance, continuation, terms, and claims under corporation policies, and all services relating thereto, are not subject to the provisions of chapter 120.

Section 3. Paragraph (a) of subsection (4) of section 192.0105, Florida Statutes, is amended to read:

192.0105 Taxpayer rights.—There is created a Florida Taxpayer's Bill of Rights for property taxes and assessments to guarantee that the rights, privacy, and property of the taxpayers of this state are adequately safeguarded and protected during tax levy, assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but comprehensive statements that summarize the rights and obligations of the property appraisers, tax collectors, clerks of the court, local governing boards, the Department of Revenue, and taxpayers. Additional rights afforded to payors

of taxes and assessments imposed under the revenue laws of this state are provided in s. 213.015. The rights afforded taxpayers to assure that their privacy and property are safeguarded and protected during tax levy, assessment, and collection are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue. The rights so guaranteed to state taxpayers in the Florida Statutes and the departmental rules include:

(4) THE RIGHT TO CONFIDENTIALITY.—

(a) The right to have information kept confidential, including federal tax information, ad valorem tax returns, social security numbers, all financial records produced by the taxpayer, Form DR-219 returns for documentary stamp tax information, and sworn statements of gross income, copies of federal income tax returns for the prior year, wage and earnings statements (W-2 forms), and other documents (see ss. 192.105, 193.074, 193.114~~(5)~~(6), 195.027(3) and (6), and 196.101(4)(c)).

Section 4. Subsections (5), (6), and (7) of section 192.032, Florida Statutes, are amended to read:

192.032 Situs of property for assessment purposes.—All property shall be assessed according to its situs as follows:

~~(5) Intangible personal property, according to the rules laid down in chapter 199.~~

(5)(6)(a) Notwithstanding the provisions of subsection (2), personal property used as a marine cargo container in the conduct of foreign or interstate commerce shall not be deemed to have acquired a taxable situs within a county when the property is temporarily halted or stored within the state for a period not exceeding 180 days.

(b) “Marine cargo container” means a nondisposable receptacle which is of a permanent character, strong enough to be suitable for repeated use; which is specifically designed to facilitate the carriage of goods by one or more modes of transport, one of which shall be by ocean vessel, without intermediate reloading; and which is fitted with devices permitting its ready handling, particularly in the transfer from one transport mode to another. The term “marine cargo container” includes a container when carried on a chassis but does not include a vehicle or packaging.

~~(6)(7)~~ Notwithstanding any other provision of this section, tangible personal property used in traveling shows such as carnivals, ice shows, or circuses shall be deemed to be physically present or habitually located or typically present only to the extent the value of such property is multiplied by a fraction, the numerator of which is the number of days such property is present in Florida during the taxable year and the denominator of which is the number of days in the taxable year. However, railroad property of such traveling shows shall be taxable under s. 193.085(4)(b) and not under this section.

Section 5. Subsection (3) of section 192.042, Florida Statutes, is amended to read:

192.042 Date of assessment.—All property shall be assessed according to its just value as follows:

~~(3) Intangible personal property, according to the rules laid down in chapter 199.~~

Section 6. Subsections (5) and (6) of section 192.091, Florida Statutes, are amended to read:

192.091 Commissions of property appraisers and tax collectors.—

~~(5) Provided, that~~ The provisions of this section shall not apply to commissions on ~~intangible property taxes or drainage district or drainage sub-district taxes, and~~

~~(6) If Provided, further, that~~ where any property appraiser or tax collector in the state is receiving compensation for expenses in conducting his or her office or by way of salary pursuant to any act of the Legislature other than the general law fixing compensation of property appraisers, such property appraiser or tax collector may file a declaration in writing with the board of county commissioners of his or her county electing to come under the provisions of this section, and thereupon such property appraiser or tax collector shall be paid compensation in accordance with the provisions hereof, and shall not be entitled to the benefit of the said special or local act. If such property appraiser or tax collector does not so elect, he or she shall continue to be paid such compensation as may now be provided by law for such property appraiser or tax collector.

Section 7. Subsections (4), (5), and (6) of section 193.114, Florida Statutes, are amended to read:

193.114 Preparation of assessment rolls.—

~~(4) The department shall promulgate regulations and forms for the preparation of the intangible personal property roll to comply with chapter 199.~~

~~(4)~~⁽⁵⁾ For every change made to the assessed or taxable value of a parcel on an assessment roll subsequent to the mailing of the notice provided for in s. 200.069, the property appraiser shall document the reason for such change in the public records of the office of the property appraiser in a manner acceptable to the executive director or the executive director's designee. For every change that decreases the assessed or taxable value of a parcel on an assessment roll between the time of complete submission of the tax roll pursuant to s. 193.1142(3) and mailing of the notice provided for in s. 200.069, the property appraiser shall document the reason for such change in the public records of the office of the property appraiser in a manner acceptable to the executive director or the executive director's designee. Changes made by the value adjustment board are not subject to the requirements of this subsection.

~~(5)~~⁽⁶⁾ For proprietary purposes, including the furnishing or sale of copies of the tax roll under s. 119.07(1), the property appraiser is the custodian of the tax roll and the copies of it which are maintained by any state agency.

The department or any state or local agency may use copies of the tax roll received by it for official purposes and shall permit inspection and examination thereof under s. 119.07(1), but is not required to furnish copies of the records. A social security number submitted under s. 196.011(1) is confidential and exempt from s. 24(a), Art. I of the State Constitution and the provisions of s. 119.07(1). A copy of documents containing the numbers furnished or sold by the property appraiser, except a copy furnished to the department, or a copy of documents containing social security numbers provided by the department or any state or local agency for inspection or examination by the public, must exclude those social security numbers.

Section 8. Subsection (9) of section 196.015, Florida Statutes, is amended to read:

196.015 Permanent residency; factual determination by property appraiser.—Intention to establish a permanent residence in this state is a factual determination to be made, in the first instance, by the property appraiser. Although any one factor is not conclusive of the establishment or nonestablishment of permanent residence, the following are relevant factors that may be considered by the property appraiser in making his or her determination as to the intent of a person claiming a homestead exemption to establish a permanent residence in this state:

~~(9) The previous filing of Florida intangible tax returns by the applicant.~~

Section 9. Paragraph (b) of subsection (2) of section 196.199, Florida Statutes, is amended to read:

196.199 Government property exemption.—

(2) Property owned by the following governmental units but used by nongovernmental lessees shall only be exempt from taxation under the following conditions:

(b) Except as provided in paragraph (c), the exemption provided by this subsection shall not apply to those portions of a leasehold or other interest defined by s. 199.023(1)(d), Florida Statutes 2005, subject to the provisions of subsection (7). Such leasehold or other interest shall be taxed only as intangible personal property pursuant to chapter 199, Florida Statutes 2005, if rental payments are due in consideration of such leasehold or other interest. All applicable collection, administration, and enforcement provisions of chapter 199, Florida Statutes 2005, shall apply to taxation of such leaseholds. If no rental payments are due pursuant to the agreement creating such leasehold or other interest, the leasehold or other interest shall be taxed as real property. Nothing in this paragraph shall be deemed to exempt personal property, buildings, or other real property improvements owned by the lessee from ad valorem taxation.

Section 10. Subsection (2) of section 199.133, Florida Statutes, is amended to read:

199.133 Levy of nonrecurring tax; ~~relationship to annual tax.~~—

(2) The nonrecurring tax shall apply to a note, bond, or other obligation for payment of money only to the extent it is secured by mortgage, deed of trust, or other lien upon real property situated in this state. Where a note, bond, or other obligation is secured by personal property or by real property situated outside this state, as well as by mortgage, deed of trust, or other lien upon real property situated in this state, then the nonrecurring tax shall apply to that portion of the note, bond, or other obligation which bears the same ratio to the entire principal balance of the note, bond, or other obligation as the value of the real property situated in this state bears to the value of all of the security; however, if the security is solely made up of personal property and real property situated in this state, the taxpayer may elect to apportion the taxes based upon the value of the collateral, if any, to which the taxpayer by law or contract must look first for collection. In no event shall the portion of the note, bond, or other obligation which is subject to the nonrecurring tax exceed in value the value of the real property situated in this state which is the security. ~~The portion of a note, bond, or other obligation which is not subject to the nonrecurring tax shall be subject to the annual tax unless otherwise exempt.~~

Section 11. Subsections (1), (3), and (4) of section 199.183, Florida Statutes, are amended to read:

199.183 Taxpayers exempt from ~~annual and~~ nonrecurring taxes.—

(1) Intangible personal property owned by this state or any of its political subdivisions or municipalities shall be exempt from taxation under this chapter. This exemption does not apply to:

(a) Any leasehold or other interest that is described in s. 199.023(1)(d), Florida Statutes 2005; or

(b) Property related to the provision of two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(15), and for which a certificate is required under chapter 364, when the service is provided by any county, municipality, or other political subdivision of the state. Any immunity of any political subdivision of the state or other entity of local government from taxation of the property used to provide telecommunication services that is taxed as a result of this paragraph is hereby waived. However, intangible personal property related to the provision of telecommunications services provided by the operator of a public-use airport, as defined in s. 332.004, for the operator's provision of telecommunications services for the airport or its tenants, concessionaires, or licensees, and intangible personal property related to the provision of telecommunications services provided by a public hospital, are exempt from taxation under this chapter.

~~(3) Every national bank having its principal place of business in another state, but operating a credit card credit application processing, customer service, or collection operation in this state, that is not considered a bank under the provisions of 12 U.S.C. s. 1841(c)(2)(F), is exempt from paying the tax imposed by this chapter on credit card receivables owed to the bank by credit card holders domiciled outside this state.~~

~~(4) Intangible personal property that is owned, managed, or controlled by a trustee of a trust is exempt from annual tax under this chapter. This exemption does not exempt from annual tax a resident of this state who has a taxable beneficial interest, as defined in s. 199.023, in a trust.~~

Section 12. Section 199.218, Florida Statutes, is amended to read:

199.218 Books and records.—

(1) Each taxpayer shall retain all books and other records necessary to identify the taxpayer's intangible personal property and to determine any tax due under this chapter, as well as all books and other records otherwise required by rule of the department with respect to any such tax, until the department's power to make an assessment with respect to such tax has terminated under s. 95.091(3).

~~(2) Each broker subject to the provisions of s. 199.062 shall preserve all books and other records relating to the information reported under s. 199.062 or otherwise required by rule of the department for a period of 3 years from the due date of the report.~~

Section 13. Paragraph (a) of subsection (1) and subsection (3) of section 199.232, Florida Statutes, are amended to read:

199.232 Powers of department.—

(1)(a) The department may audit the books and records of any person to determine whether ~~an annual tax or~~ a nonrecurring tax has been properly paid.

(3) With or without an audit, the department may assess any tax deficiency resulting from nonpayment or underpayment of the tax, as well as any applicable interest and penalties. The department shall assess on the basis of the best information available to it, including estimates based on the best information available to it if the taxpayer fails to permit inspection of the taxpayer's records, ~~fails to file an annual return,~~ files a grossly incorrect return, or files a false and fraudulent return.

Section 14. Subsections (2), (3), (4), (6), and (8) of section 199.282, Florida Statutes, are amended, and subsections (5), (7), and (9) of that section are renumbered as subsections (4), (5), and (7), respectively, to read:

199.282 Penalties for violation of this chapter.—

(2) If any ~~annual or~~ nonrecurring tax is not paid by the statutory due date, then despite any extension granted under s. 199.232(6), interest shall run on the unpaid balance from such due date until paid at the rate of 12 percent per year.

(3)(a) If any ~~annual or~~ nonrecurring tax is not paid by the due date, a delinquency penalty shall be charged. The delinquency penalty shall be 10 percent of the delinquent tax for each calendar month or portion thereof from the due date until paid, up to a limit of 50 percent of the total tax not timely paid.

~~(b) If any annual tax return required by this chapter is not filed by the due date, a penalty of 10 percent of the tax due with the return shall be charged for each calendar month or portion thereof during which the return remains unfiled, up to a limit of 50 percent of the total tax due.~~

~~For any penalty assessed under this subsection, the combined total for all penalties assessed under paragraphs (a) and (b) shall not exceed 10 percent per calendar month, up to a limit of 50 percent of the total tax due.~~

~~(4) If an annual tax return is filed and property is either omitted from it or undervalued, then a specific penalty shall be charged. The specific penalty shall be 10 percent of the tax attributable to each omitted item or to each undervaluation. No delinquency or late filing penalty shall be charged with respect to any undervaluation.~~

~~(6) Late reporting penalties shall be imposed as follows:~~

~~(a) A penalty of \$100 upon any corporation that does not timely file a written notice required under s. 199.057(2)(c).~~

~~(b) An initial penalty of \$10 per customer position statement, plus an additional penalty of the greater of 1 percent of the initial penalty or \$50 for each month or portion of a month, from the date due until filing is made, upon any security dealer or investment adviser who does not timely file or fails to file the statements required by s. 199.062(1). The submission of a position statement that does not comply with the department's specifications and instructions or the submission of an inaccurate position statement is not a timely filing. The department shall notify any security dealer or investment adviser who fails to timely file the required statements. The minimum penalty imposed upon a security dealer or investment adviser under this paragraph is \$100.~~

~~(6)(8) Any person who fails or refuses to file an annual return, or who fails or refuses to make records available for inspection, when requested to do so by the department is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

Section 15. Section 199.292, Florida Statutes, is amended to read:

199.292 Disposition of intangible personal property taxes.—All intangible personal property taxes collected pursuant to this chapter, except for revenues derived from the annual tax on a leasehold described in s. 199.023(1)(d), Florida Statutes 2005, shall be deposited into the General Revenue Fund. Revenues derived from the annual tax on a leasehold described in s. 199.023(1)(d), Florida Statutes 2005, shall be returned to the local school board for the county in which the property subject to the leasehold is situated.

Section 16. Subsection (3) is added to section 199.303, Florida Statutes, to read:

199.303 Declaration of legislative intent.—

(3) It is hereby declared to be the specific intent of the Legislature that all annual intangible personal property taxes imposed as provided by law for calendar years 2006 and prior shall remain in full force and effect during the period specified by s. 95.091 for the year in which the tax was due. It is further the intent of the Legislature that the department continue to assess and collect all taxes due to the state under such provisions for all periods available for assessment, as provided for the year in which tax was due by s. 95.091.

Section 17. Subsection (19) of section 212.02, Florida Statutes, is amended to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(19) “Tangible personal property” means and includes personal property which may be seen, weighed, measured, or touched or is in any manner perceptible to the senses, including electric power or energy, boats, motor vehicles and mobile homes as defined in s. 320.01(1) and (2), aircraft as defined in s. 330.27, and all other types of vehicles. The term “tangible personal property” does not include stocks, bonds, notes, insurance, or other obligations or securities; ~~intangibles as defined by the intangible tax law of the state~~; or pari-mutuel tickets sold or issued under the racing laws of the state.

Section 18. Paragraph (p) of subsection (7) and paragraph (a) of subsection (14) of section 213.053, Florida Statutes, are amended to read:

213.053 Confidentiality and information sharing.—

(7) Notwithstanding any other provision of this section, the department may provide:

(p) Information relative to ss. ~~199.1055~~, 220.1845, and 376.30781 to the Department of Environmental Protection in the conduct of its official business.

Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

(14)(a) Notwithstanding any other provision of this section, the department shall, subject to the safeguards specified in paragraph (c), disclose to the Division of Corporations of the Department of State the name, address, federal employer identification number, and duration of tax filings with this state of all corporate or partnership entities which are not on file or have a dissolved status with the Division of Corporations and which have filed tax returns pursuant to ~~either chapter 199 or chapter 220~~.

Section 19. Section 213.054, Florida Statutes, is amended to read:

213.054 Persons claiming tax exemptions or deductions; annual report.—The Department of Revenue shall be responsible for monitoring the utilization of ~~tax exemptions and~~ tax deductions authorized pursuant to chapter 81-179, Laws of Florida. On or before September 1 of each year, the department shall report to the Chief Financial Officer the names and addresses of all persons who have claimed ~~an exemption pursuant to s. 199.185(1)(i) or~~ a deduction pursuant to s. 220.63(5).

Section 20. Section 213.27, Florida Statutes, is amended to read:

213.27 Contracts with debt collection agencies and certain vendors.—

(1) The Department of Revenue may, for the purpose of collecting any delinquent taxes due from a taxpayer, including taxes for which a bill or notice has been generated, contract with any debt collection agency or attorney doing business within or without this state for the collection of such delinquent taxes, including penalties and interest thereon. The department may also share confidential information pursuant to the contract necessary for the collection of delinquent taxes and taxes for which a billing or notice has been generated. Contracts will be made pursuant to chapter 287. The taxpayer must be notified by mail by the department, its employees, or its authorized representative at least 30 days prior to commencing any litigation to recover any delinquent taxes. The taxpayer must be notified by mail by the department at least 30 days prior to the initial assignment by the department of the taxpayer's account for the collection of any taxes by the debt collection agency.

~~(2) The department may enter into contracts with any individual or business for the purpose of identifying intangible personal property tax liability. Contracts may provide for the identification of assets subject to the tax on intangible personal property, the determination of value of such property, the requirement for filing a tax return and the collection of taxes due, including applicable penalties and interest thereon. The department may share confidential information pursuant to the contract necessary for the identification of taxable intangible personal property. Contracts shall be made pursuant to chapter 287. The taxpayer must be notified by mail by the department at least 30 days prior to the department assigning identification of intangible personal property to an individual or business.~~

~~(2)(3)~~ Any contract may provide, in the discretion of the executive director of the Department of Revenue, the manner in which the compensation for such services will be paid. Under standards established by the department, such compensation shall be added to the amount of the tax and collected as a part thereof by the agency or deducted from the amount of tax, penalty, and interest actually collected.

~~(3)(4)~~ All funds collected under the terms of the contract, less the fees provided in the contract, shall be remitted to the department within 30 days from the date of collection from a taxpayer. Forms to be used for such purpose shall be prescribed by the department.

~~(4)~~(5) The department shall require a bond from the debt collection agency ~~or the individual or business contracted with under subsection (2)~~ not in excess of \$100,000 guaranteeing compliance with the terms of the contract. However, a bond of \$10,000 is required from a debt collection agency if the agency does not actually collect and remit delinquent funds to the department.

~~(5)~~(6) The department may, for the purpose of ascertaining the amount of or collecting any taxes due from a person doing mail order business in this state, contract with any auditing agency doing business within or without this state for the purpose of conducting an audit of such mail order business; however, such audit agency may not conduct an audit on behalf of the department of any person domiciled in this state, person registered for sales and use tax purposes in this state, or corporation filing a Florida corporate tax return, if any such person or corporation objects to such audit in writing to the department and the auditing agency. The department shall notify the taxpayer by mail at least 30 days before the department assigns the collection of such taxes.

~~(6)~~(7) Confidential information shared by the department with debt collection or auditing agencies ~~or individuals or businesses with which the department has contracted under subsection (2)~~ is exempt from the provisions of s. 119.07(1), and debt collection or auditing agencies ~~and individuals or businesses with which the department has contracted under subsection (2)~~ shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by ss. 775.082 and 775.083.

~~(7)~~(8)(a) The executive director of the department may enter into contracts with private vendors to develop and implement systems to enhance tax collections where compensation to the vendors is funded through increased tax collections. The amount of compensation paid to a vendor shall be based on a percentage of increased tax collections attributable to the system after all administrative and judicial appeals are exhausted, and the total amount of compensation paid to a vendor shall not exceed the maximum amount stated in the contract.

(b) A person acting on behalf of the department under a contract authorized by this subsection does not exercise any of the powers of the department, except that the person is an agent of the department for the purposes of developing and implementing a system to enhance tax collection.

(c) Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the private vendors. The vendors shall be bound by the same requirements of confidentiality as the department. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 21. Subsection (1) and paragraphs (b) and (c) of subsection (3) of section 220.1845, Florida Statutes, are amended to read:

220.1845 Contaminated site rehabilitation tax credit.—

(1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

(a) A credit in the amount of 35 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites is available against any tax due for a taxable year under this chapter:

1. A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation under s. 376.3078(3);

2. A drycleaning-solvent-contaminated site at which cleanup is undertaken by the real property owner pursuant to s. 376.3078(11), if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or

3. A brownfield site in a designated brownfield area under s. 376.80.

(b) A tax credit applicant, or multiple tax credit applicants working jointly to clean up a single site, may not be granted more than \$250,000 per year in tax credits for each site voluntarily rehabilitated. Multiple tax credit applicants shall be granted tax credits in the same proportion as their contribution to payment of cleanup costs. Subject to the same conditions and limitations as provided in this section, a municipality, county, or other tax credit applicant which voluntarily rehabilitates a site may receive not more than \$250,000 per year in tax credits which it can subsequently transfer subject to the provisions in paragraph (g)(h).

(c) If the credit granted under this section is not fully used in any one year because of insufficient tax liability on the part of the corporation, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for that year exceeds the credit for which the corporation is eligible in that year under this section after applying the other credits and unused carryovers in the order provided by s. 220.02(8). Five years after the date a credit is granted under this section, such credit expires and may not be used. However, if during the 5-year period the credit is transferred, in whole or in part, pursuant to paragraph (g)(h), each transferee has 5 years after the date of transfer to use its credit.

(d) A taxpayer that files a consolidated return in this state as a member of an affiliated group under s. 220.131(1) may be allowed the credit on a consolidated return basis up to the amount of tax imposed upon the consolidated group.

~~(e) A taxpayer that receives credit under s. 199.1055 is ineligible to receive credit under this section in a given tax year.~~

(e)(f) A tax credit applicant that receives state-funded site rehabilitation under s. 376.3078(3) for rehabilitation of a drycleaning-solvent-contaminated site is ineligible to receive credit under this section for costs incurred by the tax credit applicant in conjunction with the rehabilitation of that site during the same time period that state-administered site rehabilitation was underway.

(f)(g) The total amount of the tax credits which may be granted under this section ~~and s. 199.1055~~ is \$2 million annually.

(g)(h)1. Tax credits that may be available under this section to an entity eligible under s. 376.30781 may be transferred after a merger or acquisition to the surviving or acquiring entity and used in the same manner and with the same limitations.

2. The entity or its surviving or acquiring entity as described in subparagraph 1., may transfer any unused credit in whole or in units of no less than 25 percent of the remaining credit. The entity acquiring such credit may use it in the same manner and with the same limitation as described in this section. Such transferred credits may not be transferred again although they may succeed to a surviving or acquiring entity subject to the same conditions and limitations as described in this section.

3. In the event the credit provided for under this section is reduced either as a result of a determination by the Department of Environmental Protection or an examination or audit by the Department of Revenue, such tax deficiency shall be recovered from the first entity, or the surviving or acquiring entity, to have claimed such credit up to the amount of credit taken. Any subsequent deficiencies shall be assessed against any entity acquiring and claiming such credit, or in the case of multiple succeeding entities in the order of credit succession.

(h)(i) In order to encourage completion of site rehabilitation at contaminated sites being voluntarily cleaned up and eligible for a tax credit under this section, the tax credit applicant may claim an additional 10 percent of the total cleanup costs, not to exceed \$50,000, in the final year of cleanup as evidenced by the Department of Environmental Protection issuing a "No Further Action" order for that site.

(3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT FORFEITURE.—

(b) In addition to its existing audit and investigation authority relating to ~~chapter 199~~ and this chapter, the Department of Revenue may perform any additional financial and technical audits and investigations, including examining the accounts, books, or records of the tax credit applicant, which are necessary to verify the site rehabilitation costs included in a tax credit return and to ensure compliance with this section. The Department of Environmental Protection shall provide technical assistance, when requested by the Department of Revenue, on any technical audits performed pursuant to this section.

(c) It is grounds for forfeiture of previously claimed and received tax credits if the Department of Revenue determines, as a result of either an audit or information received from the Department of Environmental Protection, that a taxpayer received tax credits pursuant to this section to which the taxpayer was not entitled. In the case of fraud, the taxpayer shall be prohibited from claiming any future tax credits under this section ~~or s. 199.1055~~.

1. The taxpayer is responsible for returning forfeited tax credits to the Department of Revenue, and such funds shall be paid into the General Revenue Fund of the state.

2. The taxpayer shall file with the Department of Revenue an amended tax return or such other report as the Department of Revenue prescribes by rule and shall pay any required tax within 60 days after the taxpayer receives notification from the Department of Environmental Protection pursuant to s. 376.30781 that previously approved tax credits have been revoked or modified, if uncontested, or within 60 days after a final order is issued following proceedings involving a contested revocation or modification order.

3. A notice of deficiency may be issued by the Department of Revenue at any time within 5 years after the date the taxpayer receives notification from the Department of Environmental Protection pursuant to s. 376.30781 that previously approved tax credits have been revoked or modified. If a taxpayer fails to notify the Department of Revenue of any change in its tax credit claimed, a notice of deficiency may be issued at any time. In either case, the amount of any proposed assessment set forth in such notice of deficiency shall be limited to the amount of any deficiency resulting under this section from the recomputation of the taxpayer's tax for the taxable year.

4. Any taxpayer that fails to report and timely pay any tax due as a result of the forfeiture of its tax credit is in violation of this section and is subject to applicable penalty and interest.

Section 22. Paragraph (a) of subsection (2) and subsections (3), (8), and (12) of section 376.30781, Florida Statutes, are amended to read:

376.30781 Partial tax credits for rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas; application process; rulemaking authority; revocation authority.—

(2)(a) A credit in the amount of 35 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites is allowed pursuant to s. ss. 199.1055 and 220.1845:

1. A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation under s. 376.3078(3);

2. A drycleaning-solvent-contaminated site at which cleanup is undertaken by the real property owner pursuant to s. 376.3078(11), if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or

3. A brownfield site in a designated brownfield area under s. 376.80.

(3) The Department of Environmental Protection shall be responsible for allocating the tax credits provided for in s. ss. 199.1055 and 220.1845, not to exceed a total of \$2 million in tax credits annually.

(8) On or before March 1, the Department of Environmental Protection shall inform each eligible tax credit applicant of the amount of its partial tax credit and provide each eligible tax credit applicant with a tax credit certificate that must be submitted with its tax return to the Department of Revenue to claim the tax credit or be transferred pursuant to ~~s. 199.1055(1)(g)~~ or s. 220.1845(1)(h). Credits will not result in the payment of refunds if total credits exceed the amount of tax owed.

(12) A tax credit applicant who receives state-funded site rehabilitation under s. 376.3078(3) for rehabilitation of a drycleaning-solvent-contaminated site is ineligible to receive a tax credit under ~~s. 199.1055~~ or s. 220.1845 for costs incurred by the tax credit applicant in conjunction with the rehabilitation of that site during the same time period that state-administered site rehabilitation was underway.

Section 23. Subsection (13) of section 493.6102, Florida Statutes, is amended to read:

493.6102 Inapplicability of this chapter.—This chapter shall not apply to:

(13) Any individual employed as a security officer by a church or ecclesiastical or denominational organization having an established physical place of worship in this state at which nonprofit religious services and activities are regularly conducted or by a church cemetery religious institution as defined in s. 199.183(2)(a) to provide security on the ~~institution~~ property of the organization or cemetery, and who does not carry a firearm in the course of her or his duties.

Section 24. Paragraph (b) of subsection (4) of section 650.05, Florida Statutes, is amended to read:

650.05 Plans for coverage of employees of political subdivisions.—

(4)

(b) The grants-in-aid and other revenue referred to in paragraph (a) specifically include, but are not limited to, minimum foundation program grants to public school districts and community colleges; gasoline, motor fuel, ~~intangible~~, cigarette, racing, and insurance premium taxes distributed to political subdivisions; and amounts specifically appropriated as grants-in-aid for mental health, mental retardation, and mosquito control programs.

Section 25. Subsection (1) of section 655.071, Florida Statutes, is amended to read:

655.071 International banking facilities; definitions; notice before establishment.—

(1) “International banking facility” means a set of asset and liability accounts segregated on the books and records of a banking organization, as that term is defined in s. ~~201.23~~ 199.023, that includes only international banking facility deposits, borrowings, and extensions of credit, as those terms shall be defined by the commission pursuant to subsection (2).

Section 26. Effective January 1, 2009, subsections (5) and (6) of section 733.702, Florida Statutes, are amended to read:

733.702 Limitations on presentation of claims.—

~~(5) The Department of Revenue may file a claim against the estate of a decedent for taxes due under chapter 199 after the expiration of the time for filing claims provided in subsection (1), if the department files its claim within 30 days after the service of the inventory. Upon filing of the estate tax return with the department as provided in s. 198.13, or to the extent the inventory or estate tax return is amended or supplemented, the department has the right to file a claim or to amend its previously filed claim within 30 days after service of the estate tax return, or an amended or supplemented inventory or filing of an amended or supplemental estate tax return, as to the additional information disclosed.~~

~~(5)(6)~~ Nothing in this section shall extend the limitations period set forth in s. 733.710.

Section 27. Effective upon this act becoming a law, the executive director of the Department of Revenue may adopt emergency rules under ss. 120.536(1) and 120.54, Florida Statutes, to implement chapter 199, Florida Statutes, and all conditions are deemed met for the adoption of such rules. Notwithstanding any other provision of law, such emergency rules shall remain effective for 6 months after the date of adoption and may be renewed during the pendency of procedures to adopt rules addressing the subject of the emergency rules.

Section 28. Except as otherwise expressly provided in this act, this act shall take effect January 1, 2007.

Approved by the Governor July 27, 2006.

Filed in Office Secretary of State July 27, 2006.