

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 803 Communications Services Tax

SPONSOR(S): Finance & Tax Subcommittee, Boyd and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 898

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Subcommittee	18 Y, 0 N, As CS	Flieger	Langston
2) Appropriations Committee		Hawkins	Leznoff

SUMMARY ANALYSIS

The bill amends s. 202.11(5), F.S., to add to the definition of “information services,” data processing and other services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where such purchaser’s primary purpose for the underlying transaction is the processed data or information. This has the effect of clarifying that such services are excluded from the definition of communications services and are not subject to state and local communications services taxes.

The bill has no fiscal impact.

The bill has effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 202, F.S., imposes a communications services tax on “retail sales of communications services which originate and terminate in Florida, or originate or terminate in Florida and are billed to a Florida address.”¹ Communication services include telecommunications, cable, direct-to-home satellite, and related services.² Generally, the communication services tax includes a state tax rate of 6.65 percent and a gross receipts tax rate of 2.52 percent for a combined rate of 9.17 percent.³ In addition, local governments impose a local tax rate of up to 7.12 percent.⁴

The communications services tax is applied to the retail sales price of each taxable communications service for the purpose of remitting the tax due.⁵ The term “sales price” is defined to mean the total amount charged in money or other consideration by a dealer for the sale of the right or privilege of using communications services in this state, including any property or other service which is part of the sale and for which the charge is not separately itemized on a customer’s bill.⁶

Communications services are defined by s. 202.11(1), F.S., as “the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including video services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance.” That section excludes the following from the definition:

- Information services.
- Installation or maintenance of wiring or equipment on a customer’s premises.
- The sale or rental of tangible personal property.
- The sale of advertising, including, but not limited to, directory advertising.
- Bad check charges.
- Late payment charges.
- Billing and collection services.
- Internet access service, electronic mail service, electronic bulletin board service, or similar online computer services.

“Information services” are defined by s. 202.11(5), F.S. as, “the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, using, or making available information via communications services, including, but not limited to, electronic publishing, web-hosting service, and end-user 900 number service.” The term does not include video service.

Proposed Changes

The bill amends s. 202.11(5), F.S., to add to the definition of “information services,” data processing and other services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where such purchaser’s primary purpose for the underlying transaction is the processed data or information. This has the effect of clarifying that such

¹ Florida Revenue Estimating Conference, 2014 Florida Tax Handbook, 55.

² Chapter 202, F.S.

³ See ss. 202.12(1)(a) and 203.01(1)(b), F.S. The gross receipts tax is 2.37 percent, plus an additional 0.15 percent for certain services. Local, long distance, and toll telephone services sold to a residential household are exempt from the 6.65 percent state tax and 0.15 percent gross receipts tax.

⁴ Section 202.19, F.S.

⁵ Section 202.12, F.S.

⁶ Section 202.11(13), F.S.

services are excluded from the definition of communications services and are not subject to state and local communications services taxes.

B. SECTION DIRECTORY:

Section 1. Amending s. 202.11, F.S., revising a definition

Section 2. Providing an effective date

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 26, the Finance and Tax Subcommittee adopted a strike-all amendment removing the filed bill's revision of the definition of "sales price" and replacing it with a revision to the definition of "information services." This analysis is drafted to the committee substitute.