March 21, 2008

Legislative Update

Third Week of Session, March 17 – 21, 2008

House Vote Ends Discussion of "Water's Edge" Unitary Tax on Corporate Income

On Thursday, the Government Efficiency & Accountability Council voted along party lines to defeat HB 1237, which would have mandated "combined reporting" for corporate income taxes. This would have brought back a scaled-down version of the worldwide unitary tax, which the Florida Legislature enacted and quickly repealed back in the early 1980s. This proposal is basically a domestic, or "water's edge" unitary tax. All affiliated companies would be required to file a single return and report all U.S.-earned income to be apportioned to Florida.

Florida TaxWatch was invited by the Chairman to share its thoughts on the proposal with the Council. Director of Tax Research Kurt Wenner told the Council that combined reporting would be a radical change in our tax structure and its implications should be identified and assessed before such a change is even considered. He said combined reporting should be viewed as a tax system option that should be looked at comprehensively, not a means to increase state revenue.

Little is known about the impact combined reporting will have in Florida. What we do know is that it is complicated and costly to administer (for both taxpayers and the state). Estimating how much income it will produce has also proven difficult, and one state with it now believes it did not raise any additional revenue. Most importantly, combined reporting would likely have a detrimental economic impact by discouraging investment in Florida. Companies will always sell to Floridians but they do not have to put buildings and employees here.

Proponents said that more and more states are moving to combined reporting. Florida TaxWatch clarified that while there are 17 states with combined reporting, only three have adopted and kept it in the last twenty years and all three did it in tandem with other business tax reductions.

The vote effectively ends debate on combined reporting for at least this session.

Other Bill Action This Week

Property Tax Challenges. A number of bills look to "level the playing field," including proposed constitutional amendments HJR 7005 and SJR 2234 which would remove the presumption of correctness from the property appraiser in property tax assessment disputes. HB 1283 is an

approach supported by Florida TaxWatch to reduce the burden of proof on the taxpayer to a preponderance of the evidence. That bill, along with HJR 7005, was on the agenda in the Policy & Budget Council this week, but temporarily deferred. Earlier this week, the Taxation and Budget Reform Commission passed a statutory recommendation similar to HB 1283 that it will be transmitting to the Legislature soon.

Gambling. The full Senate has already passed a pair of bills to raise revenue by expanding gambling. SB 1380 would allow the addition of thousands of electronic gambling machines, similar to slot machines, at greyhound tracks, horse tracks and jai-alai frontons. This could raise up to $500 million. The Speaker has said flatly the House will not pass that bill. Another bill (SB 970) would lower the tax rate for casinos at Miami-Dade and Broward pari-mutuels to 35 percent from the current 50 percent but sets minimum revenue goals. Supporters say this would allow casinos to invest more money in their facilities to attract more players. Both these bills were approved last week, but on Thursday, the Senate reconsidered and amended SB 970. The amendment provides that if the Tribal-State Compact is valid, then it is subject to all regulations in the bill, if not, then it still pays a 35% tax, but is not responsible for making up the revenue if the goals are not met.

Corporate Income Tax Credit Scholarship Program. House and Senate leadership are supporting an upgrade of the Program. The Education Pre-K-12 passed a Committee Substitute to SB 1440 this week. Provisions of the CS include increasing the $88 million maximum credit by $30 million annually for five years to a total of $238 million, allowing siblings to participate, and increasing scholarship amounts. HB 653 has passed the Schools & Learning Council and is now in the Policy & Budget Council.

Local Government Tax Limit. HB 715 would require a supermajority vote of a local government governing body to levy a new tax, special assessment non-ad valorem assessment, or impact fees. The supermajority would also apply to increasing the rate or base of the above taxes and fees. Property taxes are not included. If current law requires a referendum to do any of the above, it would take a three-fifths vote of the electors. The bill was on the agenda this week in State Affairs but was temporarily deferred. The TBRC will soon be taking final action on its local revenue/tax cap.

1.35% Property Tax Cap. HJR 949 is a proposed constitutional amendment which is similar to a current citizen initiative to limit total property taxes on all property to 1.35% (13.5 mills) of taxable value. This is really just a large tax cut, but does not really reform the system. All the features of the current system, including inequities and tax shifts, would remain. Even though the Speaker has voiced his support, its prospects for this session are dim, since there is no support in the Senate. This resolution was on the agenda this week in Urban & Local Affairs, but it was not considered.

Transparency in Local Government Contracting. SB 392 requires local governments to electronically post specific information on contracts and directs the Department of Financial Services to develop and maintain a portal linking to websites containing this information. Website access must be provided to the public free of charge. The bill cleared the Community Affairs Committee unanimously this week.

Economic Development. Two bills supported by Enterprise Florida were on the Senate Commerce Committee agenda this week. The Committee approved SB 850 which would establish the New Markets (Corporate Income) Tax Credit Program to encourage capital investment in rural and urban low-income communities. SB 1398, which would provide a tax credit for research and development expenses, was temporarily postponed.