



NEWS

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“FAIR” Amendments are UN-FAIR *Hidden Multi-Billion Dollar Tax Increase Will Hurt Florida Taxpayers*

TALLAHASSEE — A series of three proposed amendments to Florida’s constitution would force an automatic sunset of hundreds of sales tax exemptions worth billions of dollars, creating a series of unintended consequences and hurting Florida’s competitive stance with other states. These are the findings of the latest report by Florida TaxWatch ***“The FAIR Amendments: Latest Attempt to Sunset Nearly All Sales Tax Exemptions and Tax Services is Very Dangerous and Ill-Advised.”***

The amendments, currently under review by the state Supreme Court, require the legislature to review all sales tax exemptions except those currently provided for: food; prescription drugs; health services; and residential rent, electricity and heating fuel by July 1, 2008. Unless the exemptions are re-enacted by that date, they will all be repealed. Similarly, services, except for employee salaries and benefits, will also be reviewed and if not exempted, will begin to be taxed. The process will be repeated every ten years.

“This is not a review of sales and use tax exemptions, it is an imposition of new taxes unless the legislature repeals each new tax,” said Dominic M. Calabro, President of Florida TaxWatch. “By the group’s own admission on its website, most sales tax exemptions would expire in January 2009 unless the legislature votes to renew them,” said Calabro.

FAIR Removes Constitutional Checks & Balances:

Only the Legislature can raise taxes. Under these amendments, the tax exemptions would be scheduled to expire automatically, without a required affirmative decision by the Legislature. The Legislature could raise hundreds of millions of dollars of sales taxes, even billions, by simply doing nothing, due to the automatic sunset provision. This would be a fundamental change of the rule of law.

The amendments also remove the Governor from the process. Not only could it create tax increases without a vote, but also eliminates the Governor’s ability to veto such increases.

“Voters are facing an attempted shortcut of due process that puts taxpayers at a clear and overwhelming disadvantage,” said Calabro.

Serious Unintended Consequences:

The FAIR Amendments are the third attempt at sales tax review in as many years. The TaxWatch report reveals ambiguities and unintended consequences created by this latest version of initiatives. For

instance, the use tax, charged on goods and services purchased outside of Florida but used in-state, is not specifically cited in these amendments. The report notes that a review of sales taxes but not use tax would discriminate against in-state sellers in favor of out-of-state sellers, "putting Florida's employers and 1.3 million retail employees at a clear, competitive disadvantage".

Property imported or produced for export, which have a collective sales exemption of \$4.4 billion, could now be subjected to automatic taxation, unless specifically repealed by the legislature. The amendments may now include an automatic sunset of taxes outside the sales tax code, including the Communications Services Tax, charged on retail sales of communications equipment. There are more than \$500 million worth of exemptions alone under this tax.

Despite language to the contrary in one of the three amendments, health services, such as doctor and hospital visits, could be taxed under another amendment.

FAIR Amendments Are Based on Myths:

The TaxWatch report refutes the contention that there are \$29 billion of sales tax "loopholes". The report notes that of the \$29 billion often cited as the value of exemptions, \$19.9 billion are services, which are not exemptions at all but rather are not considered part of the sales and use tax in Florida. There is almost no wholesale taxation of services by other states either. Of the remaining \$9.1 billion of exemptions, almost \$6 billion are made up of life's necessities, such as groceries, residential rents, residential power and heating fuel, medicines, hospital rooms, meals, and water. Many of the approximately \$3 billion in remaining exemptions are needed to maintain the structure of our state tax system, comply with federal law, or can produce economic development benefits in the long run.

Proponents of the FAIR Amendments have tried to perpetuate the myth that Florida's tax structure is too volatile and sales tax is too vulnerable to downturns in the economy. To the contrary, during the last recession, Florida's general revenue collections rose 4.3% from 2001 to 2003. Florida was the only major state that did not have a revenue drop, according to the report.

"A system that schedules tens of billions of dollars of exemptions to be automatically repealed is harmful for the state's economy and sends the dangerous message that our basic tax system is subject to a radical, dramatic change and uncertainty for businesses and their employees alike," said Calabro.

The Right Way:

Florida TaxWatch has been involved in this issue for 20 years and has successfully opposed the two previous attempts at constitutionally sun-setting sales tax exemptions. In 2003, TaxWatch offered a plan for the thoughtful review of the sales and use tax in Florida, with a system of due process to properly extend and impose the tax where it is appropriate.

A Joint Report of the Florida TaxWatch Cost Savings Task Force and the Task Force on Tax System Modernization found that the vast majority of sales tax exemptions – in terms of dollars – are fully justified and recommended a process for the review of the remainder. Total value of those exemptions at the time was \$1.2 billion.

A bill introduced by Representative Timothy Ryan and Senator Steven Geller would create a Joint Legislative Sales & Use Tax Exemptions Review Committee to review current exemptions and recommend changes. This is a step in the right direction.

"Florida TaxWatch agrees the time has come to have a thorough review of the current sales & use tax exemptions and exclusions. But the review must be fair, careful and thoughtful, not arbitrary and automatic, and must be grounded in sound constitutional checks and balances," said Calabro.

Such a review must be conducted with the necessary checks and balances, which require affirmative committee review and accountable votes by each House to raise taxes. "Taxpayers do not appreciate or welcome a multi-billion dollar hidden tax hike," said Calabro.

The Florida TaxWatch position against taxing services was echoed by the LeRoy Collins Institute in its recent report, *"Tough Choices: Facing Florida's Revenue Shortfall"*. The report notes, on page 45, *"...the political and practical difficulties of...[extending the sales tax for services]...are so severe that we think a better course of action is for the legislature to work steadily at improving the existing structure of the sales tax, gradually removing exemptions for items that should be taxed and fighting to keep exemptions from being granted mainly to favor narrow interest groups."*

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Florida TaxWatch is a private, non-profit, non-partisan research institute that over its 25 year history has become widely recognized as the watchdog of citizens' hard-earned tax dollars. Our mission is to provide the citizens of Florida and public officials with high quality, independent research and education on government revenues, expenditures, taxation, public policies and programs and to increase the productivity and accountability of Florida Government. On the web at www.floridataxwatch.org