

# Research Report

March 1998



## Final Report of the Florida Intangibles Tax Task Force

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### *Summary of Findings and Recommendations*

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The Florida Intangibles Tax Task Force was created by Florida TaxWatch, at the request of the legislative leadership, to examine the impact Florida's Intangible Personal Property Tax has on the economic development and competitive position of this state. The Task Force examined how the tax affects capital formation and job growth in order to suggest changes to help remove any impediment to economic development the tax might create.

### **Summary of Task Force Findings and Principles**

- The goal of the Task Force was to enhance the competitive position of Florida with respect to economic development by considering the impact which the intangibles tax has on such development and to suggest changes which might improve sought-after development. Specifically, Florida should seek to attract, nurture and maintain all sources of capital formation and job growth in industries providing "above average" compensation levels.
- Economic development through capital formation and growth in high-paying jobs is in the best interest of all Florida taxpayers and citizens.
- The intangibles tax is a significant source of revenue to our state, providing almost \$1.1 billion annually to state and local governments.
- Local governments should be "held harmless" from any revenue they might lose due to changes in the intangibles tax law.
- Florida's intangibles tax is unique. While a few states tax intangible assets to some degree, no state has a tax similar to Florida's. Four states have repealed intangible taxation since 1995 -- North Carolina, Georgia, Kentucky, and West Virginia.
- Certain aspects of the intangible tax have been clearly demonstrated to be deterrents to the economic development which our state seeks.

● The non-recurring tax on mortgages and other obligations secured by Florida real estate is not a disincentive for, or deterrent to, the economic growth which we seek and, therefore, is not addressed in the context of the Task Force's mission.

● The recurring tax on individuals is only a significant feature of economic development in two instances: 1) As the tax relates to business decision-makers who are less likely to relocate desirable businesses to this state due to the imposition of this tax on their personal assets; and 2) The deterrent feature which today's laws and rules create for the attraction and retention of investment advisors and similar industries to and in our state.

● The recurring tax on the intangible assets of businesses is where the most significant barriers to economic development lie. Testimony before the Task Force indicated that very significant businesses which the state desires to attract have turned away from Florida as a result of certain features of this tax.

● In the national marketplace, the intangibles tax puts Florida companies at a distinct disadvantage to their out-of-state competitors.

● The most anti-competitive features of the tax are the taxation of assets generated through a business's normal course of operations. This is primarily accounts receivable and, in the case of the financial services industry, their inventory of securities and loans. The taxation of assets which are required of businesses in the financial services industries as a result of statutory and regulatory mandate is also problematic.

● The taxation of the management of assets owned by non-residents of Florida, puts Florida businesses, such as commercial trust and investment advisement companies, at a competitive disadvantage.

● The imposition of the Florida Intangible Personal Property Tax on the non-required investment assets of businesses is not seen as a major deterrent to capital formation and job growth.

● Today's system of taxing the intangible assets of banks and insurance companies is outdated, needlessly complicated and results in little net revenue to the state. This taxation and the subsequent allowance of credits for intangibles tax paid against the ultimate liability for franchise (corporate income) tax and insurance premium tax makes tax administration more difficult and costly, both for the taxpayer and the state.

● While the Department of Revenue (DOR) has made strides in recent years, there is still a significant compliance problem with the intangibles tax. The major problem lies with the individual taxpayer where lack of taxpayer awareness, difficulties in establishing residency and little "surety of capture" are contributing factors.

● Two current intangible tax enforcement measures -- high penalties and a long statute of limitations -- are excessive and likely reduce the level of voluntary compliance.

## Summary of Task Force Recommendations

- Exempt accounts receivable from the intangibles tax. This could be done with a three year phase-in to minimize the first year fiscal impact. One-third of accounts receivable would be exempt in the first year, two-thirds in the next year and all accounts receivable would be exempt in the third year and thereafter.
- Exempt banks and insurance companies from the intangibles tax. The credit provided to these industries against the franchise (corporate income) tax and the insurance premium tax, respectively, makes the net revenue impact of this proposal minimal. In order to not reduce the revenue going to local governments, the statutory percentage of the intangibles tax provided to locals would have to be changed from 33.5% to 35.7%.
- Increase the minimum payment from the current \$5 to \$60. If a taxpayer owes less than \$60, that taxpayer does not have to pay the tax or file a return. Corporations with a less than a \$60 liability would not have to pay but would still have to file a return.
- Exempt any trust administered by a Florida commercial fiduciary, including bank trust departments and independent trust companies. Florida domiciled beneficiaries holding a taxable interest in the trust would still be required to return and pay the intangibles tax on their portion of the trust. No tax would be imposed on those trusts in which no Florida beneficiary has a taxable interest.
- To promote investment advisement and similar businesses in Florida, the exercise of discretion over intangible assets owned by an unrelated non-resident of Florida should not subject those assets to the tax.
- Provide a statutory definition to reinforce a currently proposed Department of Revenue rule that processing of intangible property -- such as a credit card servicing company -- does not constitute management or control of that property and is, therefore, not taxable.
- Reduce the excessive penalties on late intangibles tax payments to conform them with the penalties for corporate income taxes. This would limit the combination of late payment and late return penalties to 10% of the tax due per month up to a maximum of 50%. The penalty for omitting or undervaluing assets would be reduced from 30% to 10%.
- Reduce the statute of limitation period applicable in a self-disclosure of tax liability to five years, as proposed by the Department of Revenue. Currently, a taxpayer could be required to pay tax and interest for whatever time the taxpayer was subject to the tax. This should improve voluntary compliance.

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*Florida Tax Watch especially thanks the kind offices of Governor Lawton Chiles, Senate President Toni Jennings and House Speaker Dan Webster for their support. Florida TaxWatch is especially indebted to the technical and logistical support of the House*

*Finance & Taxation Committee Chairman Bob Starks, Research Director Keith Baker,  
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