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The Genesis of a Bad Tax: Why Repealing Florida's "By the Drink" Tax Now Makes Sense

By: The Honorable Curt Kiser, former Republican Minority Leader of the Florida House of Representatives and a former leader in the Florida Senate, and Chairman of the non-partisan LeRoy Collins Institute at Florida State University, and of counsel to the Holland & Knight Law Firm

During most of the 20 years I was in the legislature, half in the House and the other half in the Senate, I served on the Finance and Tax Committees. I concluded after a while that typically when there was a need for money, we didn't look at what was the least egregious tax out there, or figure out what would be the best way to fill the revenue need with the fairest tax source.

Almost invariably, when we needed for example, \$50 million, we looked at a tax that would raise \$50 million. If it was a large amount of money needed, we grouped together a smorgasbord of different taxes. I always felt that wasn't a very sophisticated way of doing it and often might be the most ill-suited. The Alcoholic Beverage Surcharge or "by the drink" tax is a good example of the worst suited tax.

Here's a brief history of this tax mistake. Back in 1990, the House and Senate had come up with different taxes of different amounts to reach a desired amount of revenue needed to balance the budget. The drink tax had never come up in regularly scheduled meetings. Only when we got into the final Conference Committee did it come up. We were in discussions, going back and forth, trying to find areas of agreement and compromise. One of my colleagues in the Senate, out of the blue, suggested we consider putting a ten-cent tax on every drink sold in bars, restaurants, and hotels in Florida.

The Chairman of the committee replied that the idea to do so had not been previously considered as an option. No one knew how much revenue it would raise, but it was felt it would be a sizeable amount of money. We all kind of dismissed it.

Then this Senator wanted the pad of appropriations requests paper. He scribbled down "ten cents a drink". "Are you serious," asked the chairman? "Yes, I want to offer that amendment," the Senator replied.

My main concern at the time was that we hadn't looked at it up to that point. Secondly, all of the existing alcoholic beverage taxes were based on volume and collected at the wholesale level with a high degree of control, ease of administration, and taxpayer compliance. I brought these points up, arguing that it was just a quick fix and would be a problem to collect and enforce. This untested new tax went against the grain (no pun intended) of the way we had long collected alcoholic beverage taxes up to that point.

The amendment passed the Conference Committee and became part of the report. It then went to the Senate floor where I spoke against it once more, arguing that taxing consumption by the drink was wrong. Accurate tax collection, I argued, was going to be a problem due to imprecise measurements by bartenders. Those who are generous in filling up the jigger glass to the top, versus those who fill it to the line, wouldn't be collecting as much of the ten cent per drink tax, as those bars whose measurements were precise.

Well it passed and became law, marking a fundamental change in the way Florida levied and collected alcoholic beverage taxes. Recent legislatures have reduced the tax by two-thirds. Now 16 years later, it's time to repeal it once and for all.

There's a whole lot about this tax that flies in the face of fair, understandable and practical tax policy. First, it's double taxation. Alcoholic beverages are already taxed at the wholesale level, and then taxed again with state and local option sales tax at the retail level. Secondly, it's complicated and expensive to administer, audit and enforce. A report by the legislature's Office of Program Policy and Government Accountability (OPPAGA) found that the tax is either overpaid or underpaid 97% of the time. A tax that's accurately collected only 3% of the time is not a fair tax to the system or the taxpayers, as pointed out in a recent Florida TaxWatch report. They're right.

Third, it's costly. Bars and restaurants have to document the type and volume of drink sold, because the law places different tax rates among liquor, wine, beer and cider. The Division of Alcoholic Beverages and Tobacco reported that 35% of its auditing staff is devoted to the alcoholic beverage surcharge.

With a near-record budget surplus, we have the money to repeal this tax this year and not miss a beat. Even without the surcharge, Florida collects more alcoholic beverage taxes than any other state in total dollars. That's not even figuring in state and local sales taxes. Although part of the money collected from this tax goes to juvenile substance abuse programs, both the Governor's and the House proposals allow continued funding for those programs.

There is no good reason to keep this unfair and unworkable tax and every reason to repeal it once and for all. Let fair and equitable tax policy prevail!

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www.floridatxwatch.org where this *Ideas In Action* was initially released before being printed in hardcopy format.

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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. Its 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.

Florida TaxWatch's research recommends productivity enhancements and explains the statewide impact of economic and tax and spend policies and practices on citizens and businesses. Florida TaxWatch has worked diligently and effectively to help state government shape responsible fiscal and public policy that adds value and benefit to taxpayers.

This diligence has yielded impressive results: since 1979, policy makers and government employees have implemented three-fourths of Florida TaxWatch's cost-saving recommendations, saving the taxpayers of Florida more than \$6.2 billion--approximately \$1,067 in added value for every Florida family.

Florida TaxWatch has a historical understanding of state government, public policy issues, and the battles fought in the past necessary to structure effective solutions for today and the future. It is the only statewide organization devoted entirely to Florida taxing and spending issues. Its research and recommendations are reported on regularly by the statewide news media.

Supported by voluntary, tax-deductible memberships and grants, Florida TaxWatch is open to any organization or individual interested in helping to make Florida competitive, healthy and economically prosperous by supporting a credible research effort that promotes constructive taxpayer improvements. Members, through their loyal support, help Florida TaxWatch to bring about a more effective, responsive government that is accountable to the citizens it serves.

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With your help, Florida TaxWatch will continue its diligence to make certain your tax investments are fair and beneficial to you, the taxpaying customer, who supports Florida's government. Florida TaxWatch is ever present to ensure that taxes are equitable, not excessive, that their public benefits and costs are weighed, and that government agencies are more responsive and productive in the use of your hard-earned tax dollars.

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