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## **Repeal Florida's Substitute Communications Tax Before It Becomes The "Unitary Tax" of the 21<sup>st</sup> Century**

*By: The Honorable Wayne Mixson, 39<sup>th</sup> Governor of Florida*

History may be doomed to repeat itself, unless the Florida Legislature comes to grips with the Substitute Communications Tax and votes for its total repeal, without further delay.

Back in 1982 when I was Lieutenant Governor, we faced a similar tax debacle called the Unitary Tax, which I began calling the "Urinary Tax" for the effect it had on Florida's businesses and ultimately all of Florida's good taxpayers. We lost some very large companies to that silly, short-sighted tax and we're about to make the same mistake all over again, but with even farther-reaching, more severe consequences this time.

The Unitary Tax was an effort by a revenue-hungry legislature to make Florida corporations pay what was sold at the time as a fairer share of state corporate income taxes. The tax method was based on a company's worldwide sales and was unanticipated, overly broad, unduly costly and detested by those who had to pay it.

As a result, the state lost several large companies, including Sony and IBM. IBM closed its Boca Raton plant and re-located 10,000 employees to North Carolina and other states, which had no such tax. The reaction and animosity created by the tax were intense. I chaired a Task Force created by Florida TaxWatch to study the impact and help Florida recover from this huge misstep, which eventually included repeal of the Unitary Tax.

Today, we're seeing the same intense reaction to the Substitute Communications Tax. As then, we've captured something unintended in this onerous and overly broad tax. And like before, this is going to turn into a business-killer for Florida, whose companies more frequently are competing on a larger level regionally, nationally and internationally. Florida has the unpleasant distinction as being the only state in the country now with this tax.

The history of this rascal goes back twenty years. After the break-up of AT&T, the Florida Legislature enacted this tax in 1985 for companies that chose to bypass the phone companies by setting up their own internal phone systems. It was rightfully at the time a way for the state to recapture lost tax revenues and provide stability. A handful of large companies paid the tax and everything was fine.

Fast forward to the year 2000. The Legislature created the Communications Services Tax to simplify the taxation and regulation of entities providing telecommunications services that had sprung up since deregulation. But it left in the old 1985 language of the Substitute Communications Systems tax and gave the Department of Revenue new authority to develop rules to administer the tax, creating an unintended consequence: the application of the tax in today's communications landscape would create a dangerous tax.

Now this isn't some little three or four-percent tax. This is a whopper that includes state and local levies amounting to almost 15% on average. The law would tax both the depreciated value of the communications equipment and all the costs to run and maintain them, to boot.

A recent Florida TaxWatch research report notes the potential reach of this tax, under these rules, "is huge and potentially encompasses every business or home with: two or more computers networked together; an intercom system; walkie-talkies, wireless routers and dispatch systems that transmit/switch voice or data among remote receivers and a central base system; or a system that transmits, routes and switches data to permit monitoring the activities and operations of manufacturing equipment, pipelines, rail systems or utilities."

Although the 2000 Communications Services Tax was supposed to be revenue neutral, the Substitute Communications Tax under this application amounts to a huge multi-million dollar tax increase on Florida's taxpayers. Businesses, faced with tougher federal reporting requirements, now find themselves in an awkward spot of having to note these tax liabilities that may never materialize on their balance sheets. Millions of dollars are being tied-up in this regulatory limbo-land that could be used to expand businesses and create new jobs.

The answer for Florida business, as it was with the Unitary Tax, will be to simply move out of state, or at least those functions related to communications, such as call-centers. And as then, with the buildings will go the jobs. That's not my idea of good tax policy.

The Substitute Communications Tax brings in a whopping \$350,000 from the handful of companies that pay the tax under the traditional definition. That's a bubble in the surf in a \$63 billion state budget. Why would we embrace a tax and rules that clearly threaten the economic vitality of Florida and be so difficult to enforce? The answer is a familiar one: political short-sightedness.

While a majority of the legislature favors a repeal of this tax (The House passed repeal in the first week of session by a vote of 117-0), a small group in the Senate is holding the effort at bay, pushing instead for a moratorium while it looks for alternative revenue sources. For \$350,000?! Good gracious, there are member projects that cost more than that.

No, the real angst by some is the idea of giving up an easy way to tax the internet in the future--specifically, something called Voice Over Internet Protocol, which allows phone calls to be placed over the internet. The federal government has told states to keep their hands off taxing this, while the feds study the issue. At stake for Florida is a potential pot

of money for public education, since the Substitute Communications Tax feeds the state's Public Education Capital Outlay (PECO) fund.

The day may never come when the federal government gives Florida and other states the right to tax internet use. If it does, it's doubtful the Substitute Communications Tax on the books today would apply. Let's deal with the devil we know, rather than the one we don't.

Employees and owners of Florida businesses, which provide 48% of the taxes collected in this state, deserve better than this. And businesses outside, looking to move to Florida are steering clear, according to Enterprise Florida. Providing a stable, predictable business environment and a level tax playing field, are important to the competitiveness and well being of Florida's growing economy.

The Florida Legislature must enact a full and total repeal, not a partial delay or moratorium of today's "Unitary Tax," or the taxpayers of Florida will be saddled with the same embarrassment and intense negative economic consequences we experienced a generation ago.

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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 empirically sound 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 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.

The organization enjoys a credible reputation and statewide exposure with the television, radio and newspaper media, which regularly report on its research and recommendations.

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's the only statewide organization devoted entirely to Florida taxing and spending issues.

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 our 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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