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A Closer Look at  
**Sales and Use Tax**  
in  
**Florida's Fiscal Crisis: The Prescription**

The Center's Sales and Use Tax recommendation has two parts: (1) a **tax rate change**, and (2) a **broadening of the tax base**. The combined effect is an increase in recurring General Revenues and a more equitable tax structure that asks everyone to pay their fair share.

## **Background**

### **Rate Change**

Florida collects a 6.0% tax on retail sales of most tangible personal property, admissions, transient lodgings, commercial rentals, motor vehicles and other similar transactions. A use tax (a tax on items purchased outside of the state, but brought into and used in Florida) is imposed at equivalent rates. Mail order sales are taxed at 6.0% for goods transported to a person in Florida. Most services are excluded from taxation.

All states except Alaska, Delaware, Montana, New Hampshire and Oregon collect a sales tax. State sales tax rates range between 2.9% (Colorado) and 7.0% (Mississippi, New Jersey, Rhode Island and Tennessee). A few states tax food and only Illinois taxes prescription and non-prescription drugs (1.0% rate).<sup>1</sup>

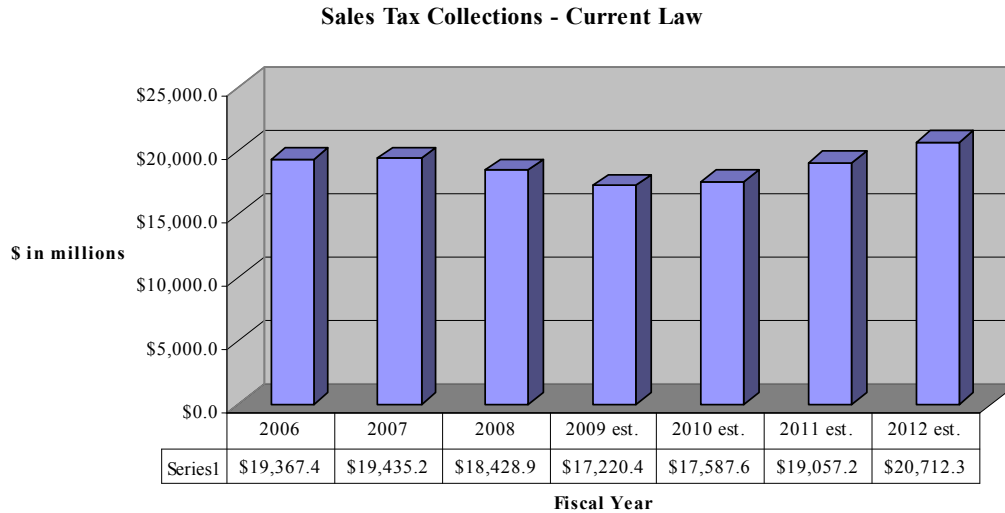
Local governments also have the ability to collect sales tax in certain instances such as a "bed tax on hotel stays" and those taxes are added to the state portion of the sales tax. For purposes of this discussion we are only talking about the sales tax that is collected by the state.

It is estimated that for fiscal year 2009 - 2010, Florida will collect \$19.8 billion in sales tax revenues. Of this amount, \$17.6 billion (89%) will be allocated to the General

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<sup>1</sup> Federation of Tax Administrators as of January 1, 2008, [www.taxadmin.org/fta/tax\\_stru.html](http://www.taxadmin.org/fta/tax_stru.html)

Revenue Fund, \$2.123 billion to Local Governments and \$81.2 million for other state purposes.<sup>2</sup> At 6.0%, each 1.0% of tax will raise approximately \$2.93 billion General Revenue in FY 2009 - 2010.



Source: Office of Economic and Demographic Research, General Revenue Estimating Conference work papers, the Florida Legislature, November 21, 2008.

**Recommendation:** Over a two-year period, it is proposed that Florida's sales and use tax rate be temporarily increased from 6.0% to 6.75% for FY 2009 – 2010, then reduced to 6.25% for FY 2010 – 2011 and thereafter. The temporary increase is to provide needed funds for the next fiscal year and would be reduced to 6.25% when the sales tax base is broadened through the adoption of additional recommendations.

**Calculation:**

**Increase Tax Rate from 6.0% to 6.75% (FY 2009 - 2010)**

- |  |                    |
|--|--------------------|
| 1. Current law estimate (11/21/08) @ 6.0%  | \$17,587.6 million |
| 2. Recommendation to increase tax to 6.75% | \$19,786.0 million |
| 3. General Revenue Increase:               | \$2,198.4 million  |

**Decrease Tax Rate from 6.75% to 6.25% (FY 2010 - 2011)**

- |   |                    |
|---|--------------------|
| 4. Current law estimate (11/21/08) @ 6.0% | \$19,057.2 million |
|---|--------------------|

<sup>2</sup> General Revenue Estimating Conference work papers, The Office of Economic and Demographic Research, the Florida Legislature, November 21, 2008.

5. FY 2011 estimate (11/21/08) @ 6.75%	\$21,439.4 million
6. FY 2011 increase @ 6.75%	\$2,382.2 million
7. Recommendation to decrease tax to 6.25%	\$19,851.3 million
8. General Revenue decrease:	(\$1,588.1) million
9. Net second year General Revenue increase:	\$794.1 million

**Consequences:** The temporary 0.75% increase in the sales tax for FY 2009 - 2010 would restore the level of sales tax revenues to that generated in FY 2005 – 2006 and provide recurring funding to help restore program reductions enacted the past two fiscal years. The increase also would replace trust funds used previously to plug holes in the budget. This has added significance if the current recession is deeper or longer lasting than currently projected. In addition, it would provide recurring General Revenue funding necessary to begin the process of expanding the sales tax base by removing inappropriate exemptions and including selected services. When these exemptions and services are included in the sales tax base in FY 2010 – 2011 (and revenues increase), the tax rate would be reduced to 6.25% (or lower if economic conditions permit).

**Compliance with Guiding Principles: Equity and Progressivity** are not improved by a change in the sales and use tax rate. **Stability** would not be enhanced by a rate increase. However, the companion recommendation of removing exemptions, exclusions and subsidies and including services to the tax base would improve equity and stability.

## Background

### Broadening of Tax Base

Florida exempts selected transactions from sales and use taxation. More than \$12.3 billion (FY 2008 - 2009 estimate) from 246 exemptions and subsidies is removed from the sales tax base.<sup>3</sup> Even if the exemption for groceries, prescription and non-prescription drugs, eyeglasses and medical supplies were retained, the remaining exemptions would still exceed \$8.5 billion.

In addition, more than \$20.9 billion in General Revenue (at the state level) is removed from the sales tax base by the exclusion of 121 services. Even if the exclusion for health services (physicians, hospitals, nursing homes, etc.) were retained, the sales tax base would still increase by more than \$17.0 billion if other excluded services were taxed.<sup>4</sup>

The Center, together with our national partner, The Center on Budget and Policy Priorities, conducted a preliminary review of the current sales tax exemptions and service exclusions. Appendix A contains a list of exemptions and exclusions we believe should be repealed this year. Some were selected on the basis of fairness (i.e. they favored some taxpayers over others); others because they are conveniences (e.g. not necessities such as

<sup>3</sup> “2008 Florida Tax Handbook,” the Florida Legislature, pgs. 123-129.

<sup>4</sup> Ibid.

bottled water and charter fishing); others because they favored some commodities over others with no apparent economic value to the state; and others were selected because the transactions occur at final consumption and should be taxed regardless of whether they are services or commodities.

The Center recommends an empirical approach (e.g. observable) to reach judgments for retaining or eliminating exemptions and exclusions that is based upon a carefully reasoned paradigm of policy considerations. Appendix B illustrates a model that the Center designed to conceptually illustrate an empirical process for evaluating the exemptions and exclusions based on various policy questions deemed relevant along with a comparative weighting scheme. In this model, net scores that result in a positive number would support elimination of an exemption and likewise, net scores that result in a negative score favor keeping the exemption. Our intention is to offer a conceptual approach for consideration and debate. It is recognized that this model is rudimentary or basic and should be further refined, but we hope it does serve as a good illustration. Further, without having the current capability to conduct in-depth analysis and the benefit of testimony from affected entities regarding the economic impact of various transactions, the Center's recommendations should be subject to further review and analysis.

In addition, \$24.7 million of General Revenue funds are allocated annually to professional sports teams and organizations (eight professional teams and five spring training franchises/facilities and two sports organizations) as facilities subsidies. These teams are worth almost \$6.0 billion<sup>5</sup> and earn hundreds of millions of dollars annually; the need for subsidy is doubtful especially at this time.

**Recommendation: Over a two-year period, it is proposed that all exemptions and exclusions be reviewed. If the exemption is not appropriate, the transaction should be included in the base for taxation. In addition, sports subsidies should be repealed.**

Exempted transactions and excluded services recommended for elimination this year are listed in Appendix A. Again, it should be recognized that this is not a final list, but a beginning for reasons stated above. It is suggested that the Florida Legislature undertake a comprehensive review of all exemptions, exclusions and subsidies to determine which should be repealed. The following calculation is based on the items included in Appendix A.

## **Calculation:**

### **Repeal Exemptions, Exclusions and Subsidies (FY 2010 - 2011)**

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<sup>5</sup> Forbes magazine, "Team Valuations," 2008.

1. Current Estimated Value of Exemptions Suggested  
for Repeal<sup>6</sup> {\$233.6 million @ 89% (GR share)}: \$207.9 million
2. Current Estimated Value of Exclusions Suggested  
for Repeal<sup>7</sup> {\$1,084.9 million @ 89% (GR share)}: \$965.6 million
3. Repeal Sports Subsidies: \$24.7 million
4. Projected Increase in FY 2010 General Revenue: \$1,198.2 million

**Consequences:** Removing inappropriate sales tax exemptions, exclusions and subsidies will broaden Florida’s sales and use tax base. The increased recurring revenue could help to restore program reductions enacted the past two fiscal years. In addition, if sufficient exemptions, exclusions and subsidies are repealed, it is possible that the proposed 6.25% tax rate for FY 2010 – 2011 could be reduced to 6.0% or less.

**Compliance with Guiding Principles: Equity and Stability** are improved by broadening the sales and use tax base.

**Recommendation: Improve Compliance with the Taxation of Internet Sales**

Under a U.S. Supreme Court decision, the individual states (including Florida) can not collect the use tax from interstate vendors (on sales to Florida residents) not physically located in the state (Florida). Although there is no actual known cost of sales tax revenues Florida loses because of this decision, it is estimated that it may be as much as \$1.0 billion or more each year.<sup>8</sup> In addition, by not collecting sales tax on internet sales, Florida’s “brick and mortar” retailers are at a competitive disadvantage; they not only lose sales, but also don’t employ as many employees in Florida. To rectify this serious problem, the states have developed a multi-state compact (Streamlined Sales Tax Project – SSTP). Thirty-four states have passed legislation to participate in the SSTP, including Florida. At this time, however, Florida has not enacted compliance legislation conforming to the Streamlined Sales Tax Agreement (22 states have).

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<sup>6</sup> See Appendix A.

<sup>7</sup> Ibid.

<sup>8</sup> State and Local Sales Tax Revenue Losses from E-Commerce; Estimates as of July 2004. Bruce, Donald Ph.D. and Fox, William Ph.D., Center for Business and Economic Research, University of Tennessee, July 2004.

**Consequences:** Improving compliance with existing sales and use tax law as it relates to remote purchases and internet sales will not only generate additional revenue for the state but also help businesses in Florida that do not engage in remote sales who are currently at a competitive disadvantage.

**Compliance with Guiding Principles:** **Equity** and **Stability** are improved and there are arguments that it will also have a positive impact on **Progressivity**.

### Summary

The Center suggests that Florida increase its sales and use tax rate from 6% to 6.75% for one year while a comprehensive review of the current exemptions and exclusions to the base is conducted to determine the effectiveness of retaining or repealing each one. A conceptual model for undertaking the review is discussed and illustrated below. In the second year, the Center recommends that the sales and use tax rate should be lowered to 6.25% as exemptions and exclusions are repealed. A summary of the revenue projected from the suggestions offered by the Center follows.

**Estimated Revenue Generated From Center's  
Sales and Use Tax Recommendations  
Total by Fiscal Year \$ in Millions**

<b>Revenue Source</b>	<b>FY2009 - 2010</b>	<b>FY2010 - 2011</b>
Increase Tax Rate by 0.75%	\$2,198.4	\$2,382.2
Lower Tax Rate by 0.5%		(\$1,588.1)
Repeal Selected Exemptions	-	\$207.9
Included Selected Services	-	\$965.6
Eliminate Sports Subsidies	-	\$24.7
Expand Taxation of Internet Sales	TBD	TBD
<b>Total</b>	<b>\$2,198.4</b>	<b>\$1,992.3</b>

**Note:** The recommendations in this report and the resulting revenues are derived from an independent analysis of information contained in the "2008 Florida Tax Handbook" and from the November 21, 2008 General Revenue Estimating Conference. As more current information becomes available, the recommendations may be updated to reflect this new information.

## Appendix A

### The Florida Center for Fiscal and Economic Policy Recommended Repeal of Selected Sales and Use Tax Exemptions and Exclusions

Florida Statute	Description Exemptions, Deductions, Credits	\$ in Millions
212.02(14)c	Materials used for packaging	\$28.1
212.031(1)(a)6	Toll road charges	\$67.9
212.031(9)	Highschool and college teams' stadium skyboxes	\$0.9
212.08(4)(a)1	Bottled (except carbonated) water	\$42.3
212.08(7)s	Alcoholic beverages used by businesses for tasting	\$1.6
212.08(7)(w)	Subscription newspapers, newsletters & magazines delivered by mail	\$21.5
212.08(7)(y)	Charter fishing boats	\$71.3
	<b>Sub Total</b>	<b>\$233.6</b>
<b>NAICS Code</b>		
	<b>Services</b>	
8121	Personal Care Services (including Beauty and Barber Shops)	\$91.8
8123	Drycleaning and Laundry Services	\$68.9
8129	Other Personal Services (Pet Care, Photo Finishing, Valet Parking, etc.)	\$11.0
5412	Accounting, Tax Preparation, Bookkeeping and Payroll Services	\$324.9
5615	Travel Arrangement and Reservation Services	\$57.9
5617	Services to Buildings and Dwellings (includes Cleaning and Pest Control)	\$98.5
4921	Couriers	\$243.1
4922	Local Messengers and Local Delivery	\$27.1
7111	Performing Arts Companies	\$6.8
7112	Spectator Sports (sports Teams and Clubs, Racetracks, etc.)	\$13.1
7113	Promoters of Performing Arts, Sports and Similar Events	\$53.3
7114	Agents and Managers for Artists, Athletes, Entertainers, etc.	\$12.8
7115	Independent Artists, Writers and Performers	\$42.3
7139	Other Amusement and Recreation Industries	\$33.4
	<b>Sub Total</b>	<b>\$1,084.9</b>
	<b>TOTAL</b>	<b>\$1,318.5</b>

Source: "2008 Florida Tax Handbook," the Florida Legislature

**Appendix B**  
**Conceptual Empirical Model for Evaluating Sales and Use Tax**  
**Exemptions**  
**Retain or Eliminate?**

<b>Policy Question</b>	<b>Response justifying elimination of an exemption &amp; Weight</b>	<b>Response favoring the exemption &amp; Weight</b>	<b>Net Score</b>
<i>Is it a necessity to life item?</i>	No + 20	Yes - 20	
<i>Does it create an advantage vs. non-Florida entities?</i>	No + 5	Yes - 5	
<i>Does it create jobs?</i>	No + 20	Yes - 20	
<i>Does it create above state average salary jobs?</i>	No + 5	Yes - 5	
<i>Does it prevent tax pyramiding?</i>	No + 5	Yes - 5	
<i>Are taxpayers with similar characteristics treated the same?</i>	No + 10	Yes - 10	
<i>Do other states tax it?</i>	No + 5	Yes - 5	
<i>Is it a final consumption item?</i>	No + 5	Yes - 5	
<i>Does the exemption target more than 10 taxpayers?</i>	No + 5	Yes -5	
<i>Is it fair to all taxpayers?</i>	No + 10	Yes - 10	

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