



ASSOCIATED INDUSTRIES OF FLORIDA

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2009 SESSION PRIORITIES

Taxation

Florida's unprecedented budget shortfall will dominate much of the conversation and debate during the 2009 session. By the time session arrives, legislators would have already met during a January Special Session to balance the budget and fill a \$2.3 billion hole. Even with this monumental reduction, the state is projected to be an additional \$5 billion in the red by the 2009 regular session. There are two common approaches to dealing with a shortfall. Either cut spending and reduce government services or find new sources of revenue (also known as raising taxes). Legislators find themselves in the difficult position of having to balance these two opposing forces. Revenue enhancements are difficult to come by without increasing taxes or fees. **AIF is strongly opposed to any sort of excise tax or efforts to enact combined reporting for corporations as a way to make-up revenue.** These types of taxes have proven to be unfair and ultimately harmful to the economy as a whole.

A number of other taxation issues still remain unsolved. After over a year of public meetings and votes, the Taxation and Budget Reform Commission (TBRC) was unable to produce any significant changes to Florida's tax structure. Florida's **property tax** system continues to remain unfair for businesses that are paying more than their fair share of property taxes. Additional legislation in the property tax arena is sure to be considered during the 2009 session.

The TBRC was successful in one major endeavor, the placement on the November ballot of a "**Working Waterfront**" amendment to the state constitution. Amendment 6, as it was called, was overwhelmingly approved by over 4.9 million Floridians, making it the constitutional amendment with the most favorable votes. The purpose of the amendment was to change the way working waterfront property was taxed. The current system of "highest and best use" taxation forces waterfront businesses to be appraised and taxed upon potential use of the land, such as high rise condominium or waterfront resort, instead of the current use of the property. Under Amendment 6, working waterfront property will be taxed at its current use.

Another critical tax issue left unresolved deals with **corporate income taxes** for Florida companies. Last year, the Legislature passed HB 5065 by Rep. Michael Grant (R-Port Charlotte) – the annual "piggyback" bill that codifies federal income tax code changes and ensures that businesses in Florida do not have to keep two sets of books. This bill normally just accepts all federal tax code

changes, but this year the state revenue problems did not allow them to codify the 50% federal bonus depreciation and section 179 expensing of certain assets that was part of the federal economic stimulus package. In drafting the bill to disallow this accelerated depreciation, the staff tried to make it easier for Florida companies to comply by requiring the specific expenses to be added back to income for Florida income tax purposes. This way there would not be a need for two sets of books for depreciation expenses for federal and state. Unfortunately, this caused a major problem for Florida businesses and would have forced them to overpay state corporate income taxes. On December 9th, the Cabinet passed an emergency rule recommended by the Department of Revenue Executive Director Lisa Echeverri that has the force of law for 90 days. This rule fixed the unintended problems the bill caused, but legislators must pass a statutory fix within the first week of the 2009 session.

AIF will focus and pursue legislation on the following tax issues in 2009:

Excise Taxes

AIF is OPPOSED to increases in any form of excise taxes (alcohol, cigarettes, etc.). These taxes are based on discretionary consumer spending and provide a highly unreliable and unpredictable basis for taxation. Excise taxes tend to fall on a percentage of the population instead of on the population as a whole and are thus unfair by definition. Cigarette taxes in particular tend to fall the most heavily on working people and others who can afford them the least. In sum, excise tax increases are inconsistent with the fundamental concepts of tax fairness.

The momentum for increases in the cigarette tax is based on the premise that people who smoke cigarettes do not pay their fair share of the state's Medicaid burden. However, the cost of a pack of cigarettes includes increments for the tobacco settlement payments, for state and federal excise taxes, and for sales tax that, when totaled, actually exceed the Medicaid burden alleged by proponents of a tax increase.

Corporate Income Tax Glitch

AIF SUPPORTS the passage of a corporate income tax glitch bill during the first week of the 2009 Legislative Session. This glitch bill must be passed before the 90-day emergency rule adopted by the Florida Cabinet runs out. AIF, along with a number of its business community colleagues, spent weeks during

the fall of 2008 to bring attention and ultimately resolve this glitch, which had the potential to cost employers in Florida hundreds of millions of dollars and discourage companies from making important end-of-the-year investments across the state. Legislators must act quickly and resolve this unintended mistake, especially in light of the current economic hardships facing the state.

Property Tax

AIF SUPPORTS efforts to extend the 3% cap on assessments to non-homestead properties and will support legislation that requires a super majority for additional increases in taxes and fees. Property tax issues in Florida continue to remain unresolved and fairness between homestead property owners and commercial property owners must be addressed since businesses in Florida continue to bear the brunt of the consequences of the “Save our Home” amendment, which capped increases in property taxes for homestead property owners. **AIF will also support legislation that addresses ad valorem assessment value challenges including revising the burden of proof and the presumption of correctness to level the playing field for tax payers.** Significant progress was achieved last session with the passage of HB 909 which improved the Value Adjustment Board (VAB) process, but there is still more to be done in this area.

Amendment 6 Implementation

AIF SUPPORTS the adoption by the Legislature of the necessary implementing language for Amendment 6, better known as the “working waterfront” amendment. Passage of this implementation language is vital to Florida’s economy. The marine industry alone contributes \$18 billion dollars to Florida’s economy and employs approximately 220,000 people in our state. Without this important change, many working waterfront businesses were looking at selling their property to developers because of the drastic rise in their property taxes.

Streamlined Sales and Use Tax

AIF will work with other business associations to support a joint resolution to encourage Congress to pass legislation to require internet retailers to pay state sales taxes in all states that have passed the Streamline Sales and Use Tax Compact bill, regardless of their nexus in those states. This is the only way to move forward to protect our brick and mortar business-

es that are at a competitive disadvantage with internet retailers that do not collect Florida sales tax because they have no nexus. There is a common misconception that this proposal represents a “new” tax, but in reality, the state of Florida would only be enforcing existing law.

Combined Reporting

AIF OPPOSES any legislation that would bring about “combined reporting” or establish a unitary tax in Florida. Taxing our way out of a recession is not feasible. This type of legislation sends a terrible message to companies and investors looking to invest in our state. Florida tried this approach in the 1980s, and it was a disaster, costing the state thousands of jobs. This proposal would mandate “combined” reporting, which would require all corporations to file a tax return combining income from subsidiaries outside of Florida and then apportion the combined income to Florida based upon a specific formula.

Rental Car Surcharge

AIF OPPOSES measures that seek to increase “hidden taxes” and those taxes that disproportionately affect a select group of citizens or businesses. One such tax — the rental car surcharge — fits that mold. Current Florida law requires car rental companies to collect \$2 a day on every car they rent in Florida and remit them to the state to be used for transportation projects. Over the last several sessions, there have been attempts to double this tax to \$4 a day.

A recent study by researchers at the Brookings Institute and the Urban Institute entitled, “Taken for a Ride: Economic Effect of Car Rental Excise Taxes” noted that “taxes should be designed to promote equity, simplicity and economic prosperity ... car rental excise taxes fail all of these tests.” Supporters of this tax increase say that tourists should help pay for our transportation needs. However, this tax increase is levied on all renters of vehicles, including Florida citizens and businesses.

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