

# DEPARTMENT OF TAXATION

## 2015 Fiscal Impact Statement

- |  |                                      |
|--|--------------------------------------|
| <b>1. Patron</b> Emmett W. Hanger, Jr.   | <b>2. Bill Number</b> <u>SB 1127</u> |
|  | <b>House of Origin:</b>              |
| <b>3. Committee</b> House Finance  | <u>          </u> <b>Introduced</b>  |
|  | <u>          </u> <b>Substitute</b>  |
|  | <u>          </u> <b>Engrossed</b>   |
| <b>4. Title</b> Personal Property Tax; Separate<br>Classification for Certain Miscellaneous and<br>Incidental Tangible Personal Property | <b>Second House:</b>                 |
|  | <u>  X  </u> <b>In Committee</b>     |
|  | <u>          </u> <b>Substitute</b>  |
|  | <u>          </u> <b>Enrolled</b>    |

### 5. Summary/Purpose:

This bill would create a separate classification for purposes of the Tangible Personal Property Tax for miscellaneous and incidental property used in a trade or business, when the property: 1) is not classified as machinery and tools, merchants' capital or short-term rental property; and 2) has an original cost of less than \$250. Localities would be authorized to tax this property at a rate not to exceed the rate applicable to the general class of tangible personal property. The bill would also grant localities the authority to allow a taxpayer reporting any such qualifying tangible personal property to provide an aggregate estimate of the total value of all such property owned by the taxpayer, in lieu of a specific list.

Under current law, over forty categories of tangible personal property are separately classified and may be taxed at a rate not to exceed the general rate imposed on tangible personal property.

The effective date of this bill is not specified.

- 6. Budget amendment necessary:** No.
- 7. Fiscal Impact Estimates are:** Not available. (See Line 8.)
- 8. Fiscal implications:**

To the extent that a locality elects to separately classify and tax the qualifying tangible personal property described in this bill at a lower rate, the bill would result in a decrease in revenue for that locality. This bill would have no impact on state revenues.

### 9. Specific agency or political subdivisions affected:

All localities

### 10. Technical amendment necessary: No.

## 11. Other comments:

### Machinery and Tools Tax

Generally, machinery and tools used in manufacturing, mining, water well drilling, processing or reprocessing, radio and television broadcasting, dairy, dry cleaning or a laundry business are segregated as a separate class of tangible personal property and are subject to local taxation only. The tax rate imposed on machinery and tools may not exceed that imposed on the general class of tangible personal property.

As established in a 1950 opinion of the Tax Commissioner, machinery and tools used in the manufacturing business are those machinery and tools (1) actually and directly used in manufacturing processes and (2) those machinery and tools used in the manufacturing business that are necessary in the particular manufacturing business and are used in connection with operation of machinery that is actually and directly used in manufacturing processes.

### Merchants' Capital Tax

The Merchants' Capital Tax is a local option property tax imposed on the inventory, daily rental passenger cars, and all other personal property of merchants except for tangible personal property not for sale as merchandise. As of 2008, the tax was imposed in 46 counties and 7 towns. Localities that impose the tax are prohibited from imposing a BPOL tax on merchants. Additionally, the tax must be imposed at a rate that does not exceed the rate or ratio that was in effect in that locality on January 1, 1978.

### Short-Term Rental Property Tax

Generally, short-term rental property constitutes a classification of merchants' capital that is separate from other merchants' capital. Localities may tax short-term rental property as merchants' capital or levy the short-term rental property tax in an amount not to exceed one percent on the gross proceeds from rentals, or 1.5% for heavy equipment short-term rental property. The statute defines "short-term rental property" as tangible personal property held for rental and owned by a person engaged in the short-term rental business, excluding (i) trailers, and other tangible personal property required to be licensed or registered with the Department of Motor Vehicles, Department of Game and Inland Fisheries or the Department of Aviation.

### Tangible Personal Property Tax

Currently, there are forty-five categories of property separately classified for purposes of the Tangible Personal Property Tax. The majority of these categories can be taxed at a rate not to exceed the general rate imposed on tangible personal property. Four categories related to research and development, equipment that changes the energy source for manufacturing plants, equipment for manufacturing testing, and heavy motor vehicles to transport property for hire may not be taxed at a rate that exceeds that applicable to machinery and tools. Manufactured homes may be taxed at the same rate as real property.

## Proposal

This bill would create a separate classification for purposes of the Tangible Personal Property Tax for miscellaneous and incidental property used in a trade or business, when the property: 1) is not classified as machinery and tools, merchants' capital or short-term rental property; and 2) has an original cost of less than \$250. Localities would be authorized to tax this property at a rate not to exceed the rate applicable to the general class of tangible personal property. The bill would also grant localities the authority to allow a taxpayer reporting any such qualifying tangible personal property to provide an aggregate estimate of the total value of all such property owned by the taxpayer, in lieu of a specific list.

The effective date of this bill is not specified.

## Similar Legislation

**House Bill 2098** is substantively identical to this bill.

cc : Secretary of Finance

Date: 2/9/2015 KP  
DLAS File Name: SB1127FS1161