TAX REFORM

DANGER--

USE CAUTION WHEN ENTERING THIS AREA

Presentation by:
Winston W. Gardner, Jr.. P.E., LEED® AP
President/Chief Operating Officer
TLC Engineering for Architecture

Chairman, House Committee on Finance and Taxation 1987

As former Chairman of the House Committee on Finance and Taxation and actually the author of the legislation that created the "Tax on Services" in 1987, I have followed the deliberations of the Tax and Budget Reform Commission, Finance and Taxation Committee with regard to the constitutional imposition of a sales tax on services with great interest. I have the greatest respect for Senator John McKay and his dedication to this cause. While I understand the current concerns regarding the state budget and economy, I believe the imposition of a tax on services by constitutional amendment, is a dangerous approach to achieve tax reform.

In 1986 Governor Bob Graham signed into law the sunset of all sales tax exemptions including services. In 1987 I was given the task of dealing with it. It's an experience I would not want to repeat. There are a number of similarities between the 1986 Sunset legislation and CP 0002. As in most cases, the devil is in the details. I'm sure Senator McKay will point out that these details will be addressed by the legislature after passage of the constitutional amendment. I remain skeptical.

- The revenue generated by any individual service as presented to the Commission is based on gross sales. It comes directly from the Exclusions, Exemptions, Deductions and Credits from the Sales & Use Tax section of the Florida Tax Handbook and does not assume any "Sale for Resale" provision as provided for in the sales tax on tangible personal property (TPP). That creates pyramiding or double and triple taxation which is counterproductive to business development and discriminatory to small service providers who must team to compete with large service providers. If the "Sale for Resale" provision is included the revenue generated will be substantially reduced from that presented – a major problem in 1987. It also includes sales to government agencies and religious and charitable organizations. Any exemptions for these service consumers would further reduce revenue from that shown in the Florida Tax Handbook.

March 29, 1987 Miami Herald

Sales-Tax Strategy

". . . To avoid costly errors, however, lawmakers need to step back and take a careful look at what they're doing. They must because the panel that they created to do so – the Sales Tax Study Commission – did not. Its failure is worrisome because the promise of a through study is what induced many skeptical lawmakers last year to vote in good faith to repeal the exemptions

. . . Critics will make much of media opposition to taxing advertising. So be it. Yet the fact remains that it's among a wide array of tax exemptions whose repeal could cause problems for the state as well as for the businesses and occupations affected. **The doubts arise in part because the state hasn't yet defined "services" adequately to facilitate applying such a tax to business activities more complex than the simple rendering of a professional or personal service. Accordingly, applying the sales tax in several of these fields would raise concerns about "pyramiding", or taxing each component of a product that itself is taxed.** It raises doubts about enforcement, about inadvertently taxing personal income, and about the potential loss of business and jobs to other states. Moreover, some of these gray-area services raise Constitutional or other legal questions. . . ."

- The 1986 sunset legislation had no definition of "services". While some reference is made in CP 0002 to the NAICS, the absence of a specific definition allows broad interpretation by the Department of Revenue, which in turn will allow for taxes to be imposed that were never considered by the legislature in its reviews. In 1987, for example, the DOR estimated $30 million would be raised from sources not yet identified.

  January 25, 1987 *Orlando Sentinel*

  <u>Shock over sales taxes . . .</u>

  How did a good idea – broadening the sales tax base – turn into a time bomb?

  Blame carelessness. Legislators knew that the easiest solution for the state's financial crunch is to tax services, now largely exempt.

  But which services?

  There was no answer? The law just says that unless this year's Legislature puts the old exemptions back, the state will levy a 5 percent tax on "any service"

  Now comes a shock from the state Department of Revenue: Repealing the exemptions could bring in $2.5 billion extra a year. Compare that with the $1.3 billion that legislative leaders predicted. Something's askew – **thanks to the Legislature's failure to define what it meant by "services".**

- Should the tax on services be imposed similarly to the tax on TPP as preferred by the Department of Revenue the result will be the same as with the lack of specific definition of "Services". Until this issue was addressed in 1987, for example, the DOR would have imposed the sales tax on interest on loans including home mortgage and pass book savings.

  In 1987 the Department of Revenue strongly recommended applying the same rules of construction for the sales tax on services as exists for the sales tax on goods. Florida law places a sales tax on all goods and then specifies exemptions from the sales tax. That tax philosophy places the burden of proof for an exemption on the taxpayer. Whether you agree or disagree with that basic philosophy is not the question. The question, or problem, was in the definition. Goods is goods. Services may not be what you think they ought to be. And if you don't understand that, then good. You're beginning to understand the nature of the problem.

  Example. Interest on loans was interpreted as being a service charge for the use of money (the loan), and that interpretation went both ways. A borrower would have to pay a 5% sales tax on interest paid to the lender and a bank would have to pay a 5% sales tax on interest paid on a savings account.

  Example. The fees paid (to cities and others) for sewage treatment was interpreted as a service charge and therefore taxable. That's a 5% tax on your monthly water bill. (That actually passed into law for sewage treatment for businesses.)

  Example. Insurance premiums were interpreted as being a service charge and therefore taxable.

January 16, 1987 *Orlando Sentinel*

Service list grows, tax shock spreads

. . . James Francis, director of tax research at the Department of Revenue, said agency officials realized in the process of updating revenue estimates that the laws requires many more services to be taxed than previously thought.

February 3, 1987 *St. Petersburg Times*

Official warns against insurance tax

- The absence of an apportionment formula that allocates the tax to out-of-state service providers for services consumed within Florida will place in-state service providers at a substantial competitive disadvantage. If an apportionment formula is included to "level the playing field" for Florida service providers, the tax takes on the form of a "Unitary" tax, which we learned about in 1983.

March 22, 1987 *Jacksonville Times Union*

Sales tax sunset brings echoes of unitary 'raid on Entebbe'

The more information that is developed about the plan of the Florida Legislature to back into a huge tax increase by sunsetting sales tax exemptions, the more inadvisable the procedure seems.

The entire episode is beginning to take on some of the warning signals that should have deterred legislators, but did not, from passing the unitary tax.

February 20, 1987 *Tampa Tribune*

Sales tax may scare firms away

". . . . AAA's "rethinking" of a planned relocation to Central Florida from Northern Virginia shows rising corporate concern over the state's new sales tax," commerce experts said . . .

....Earlier this month, GTE Data Services said it might scrap a $500 million expansion in Tampa and move to another state if it loses its sales tax exemption . . . .

. . . . State officials said many other businesses have threatened to pull out or cancel moves to Florida if tax exemptions are repealed.

- There are numerous examples of businesses which, by simply changing their business plan, can completely escape the tax thereby substantially reducing expected revenue – bulk freight haulers, affiliated corporations.

- There are numerous service providers who cannot pass the tax along to the consumer of the service arguably creating an income tax – travel agents, outside sales representatives.

- There are the questions regarding taxing the imputed value of services or barter transactions.

  Example: A person builds his own home using his own labor. The interpretation could be that he equate the value of his labor to the cost of having had a contractor perform the "construction service", impute a value, compute the sales tax owed and remit it to the state. It happened in 1987.

- The last item I'll mention is advertising. It's extremely complex due to its basic structure - replete with barter transactions. There is no question that during the short duration the tax on services was in place, thousands and thousands of hotel room nights plus associated food, beverage and related sales were lost resulting in millions of dollars in tax revenue lost to the State of Florida and multi-millions of dollars in business revenue lost. It took several years to recover from conventions being cancelled. That also does not include the millions of dollars lost by Florida Broadcasters during the advertising boycott.

> *Associated Press*, June 20, 1987
>
> **Ad tax**
>
> Hotels face cancellations in protest move
>
> The number of organizations pulling conventions and meetings out of Florida hotels is growing as the national business community protests the state's 5 percent on advertising. . . . .
>
> . . . . "Some areas were disproportionately hard hit, like northeast Florida. The (cancellations) are not just for 1987. They go until 1991".

> *Orlando Sentinel, Central Florida Business*, July 6-12, 1987 Editorial
>
> **CANCELED CHECK-INS**
>
> Effect unknown as conventions pull out over services tax
>
> . . . . about a dozen organizations have canceled meetings or conventions in Orlando . . . . less definable loss will come from those groups that, though they have not scheduled conventions in Florida, have announced they won't even consider the state unless the tax is repealed.

Unfortunately there is very little institutional knowledge remaining in the legislature except for business lobbyists and some professional staff. That's who will control the review process resulting from CP 0002.

On a more personal note, I am President and Chief Operating Officer of a 400+ person engineering firm headquartered in Orlando. If the Sale for Resale provision is not adopted, this proposal will hurt my firm as well as all other engineering firms based in Florida. We will also be put in a substantial competitive disadvantage with firms from outside of Florida if the apportionment formula provision is omitted. Unfortunately, I believe members of the legislature will be inclined to leave the details to professional staff who have little experience in the business world. And that's before it even gets to the Department of Revenue for interpretation and rule promulgation.

In 1987 we had **12 months** from initiation to implementation and the revenue generated was about **$800 Million**.

CP0002 cuts the implementation time to **8 months** and multiplies the revenue by a factor of 10 or **$8 Billion**.

CP0002 would lock it into the constitution and mandate a revenue level. That is just not good public policy.

I strongly urge you to vote NO for CP0002. It's already been proven to be bad for Florida.

1987 Sales Tax on Services CHRONOLOGY

1987 Sales Tax on Services CHRONOLOGY

Jun 5, 1981	**"SAVE OUR RIVERS"** program signed into law by Governor Bob Graham.
Jun 1981	Florida ranked first in business climate by Grant -Thornton.
Jan 1983	Speaker H. Lee Moffitt establishes **SPEAKER'S ADVISORY COMMITTEE ON THE FUTURE**.
Jun 1982	Florida ranked first in business climate by Grant-Thornton.
Jun 15, 1983	Prisoner early release program signed into law by Governor Bob Graham.
Jun 1983	Florida ranked first in business climate by Grant-Thornton.
Jul 1, 1983	**WATER QUALITY ASSURANCE ACT** signed into law by Governor Bob Graham.
Jun 1, 1984	**WETLANDS PROTECTION ACT** signed into law by Governor Bob Graham.
Jun 1984	Speaker James Harold Thompson appoints Rep. Jon Mills as Chairman, **SPEAKER'S ADVISORY COMMITTEE ON THE FUTURE.**
Jun 1984	Florida ranked third in business climate by Grant-Thornton.
May 31, 1985	**GROWTH MANAGEMENT ACT** signed into law by Governor Bob Graham.
May 31, 1985	**STATE COMPREHENSIVE PLANNING ACT** signed into law by Governor Bob Graham. Created the **STATE COMPREHENSIVE PLANNING COMMITTEE**.
Jun 1985	**"SAVE OUR EVERGLADES"** program initiated by Governor Bob Graham.
Jun 26, 1985	**"SAVE OUR BEACHES"** program signed into law by Governor Bob Graham.
Jun 1985	Florida ranked sixth in business climate by Grant-Thornton.
Jun 1986	Florida ranked thirteenth in business climate by Grant-Thornton. Tagged as having the nation's second worst quality of life.
Jun 30, 1986	**Sunset of sales tax exemptions for services and some goods signed into law by Governor Bob Graham.**
July 1986	Speaker Designate Jon Mills asks Rep. Bud Gardner to serve as Chairman of the Committee on Finance and Taxation during his upcoming two year term as Speaker.
Sep 23, 1986	Department of Revenue retains the services of **COOPERS & LYBRAND**, a big eight CPA firm, to perform an analysis of Florida's Service industry.
Oct 1, 1986	Department of Revenue retains the services of **PROFESSOR WALTER HELLERSTEIN**, a nationally recognized expert on constitutional law as it relates to taxation.
Nov 4, 1986	Mayor Bob Martinez, Tampa, wins the Gubernatorial election on an antitax/budget slashing platform.
Nov 19, 1986	**COOPERS & LYBRAND** issues their report on Florida's service industry.
Nov 1986	Rep. Bud Gardner appointed Chairman, House Committee on Finance and Taxation.
Nov 1986	Sen. Tim Deratany appointed Chairman, Senate Committee on Finance and Taxation.

Apr 3-4, 1987	House F & T Chairman and House Commerce Chairman travel to New York to meet with representatives of CBS Television and Radio and of the national advertising industry.
Apr 6, 1987	SALES TAX STUDY COMMISSION issues its report to the Legislature.
Apr 7, 1987	Governor Bob Martinez in his State of the State Address "I am prepared to take an unpleasant dose of tax medicine this year, but I do not intend to do it year after year because we did not have the courage to do it right the first time.
Apr 14, 1987	House Sales Tax Subcommittee meeting. PCB 87-11:d (Sales Tax on Services) passes 8 / 0.
Apr 14, 1987	House Finance and Taxation Committee meeting. PCB 87-11:d (Sales Tax on Services) passes 23 / 3.
Apr 15, 1987	SB 777 (Sales Tax on Services) passes Senate 28 / 12.
Apr 16, 1987	HB 1250 (Sales Tax on Services) amended on to SB 777 and passes house 84 / 35. Conference committee appointed.
Apr 21, 1987	RESEARCH REPORT by FLORIDA TAXWATCH: *Florida Taxwatch finds that there is a compelling case for broadening the sales tax base to help pay for the extraordinary unmet needs delineated in the State Comprehensive Plan - $35 billion at the state level and $18 billion locally. However, only those services which do not pyramid, place Florida businesses at a competitive disadvantage, violate federal law or interstate commerce or violate important State policies - such as charities, conservation or environmental concerns - should be taxed.*
Apr 21, 1987	Secret , evening, "pizza and beer party" meeting among conferees at a local residential townhouse. Compromise decisions reached on final few conference open items.
Apr 22, 1987	House F & T Chairman meets with House Speaker. (Orlando Sentinel reporter Donna Blanton sitting outside door to Speaker's office) F & T Chairman threatens to withdraw support for services tax bill if pyramiding is not eliminated and if other problem areas are not corrected. Senate President and Lieutenant Governor summoned to the meeting. Agreement is reached to continue with planned passage with understanding that corrective legislation (glitch bill) will be passed prior to end of the regular session.
Apr 22, 1987	House F & T Chairman to the Conference Committee on Sales Tax on Services at its final meeting"....I think that you can go to the Yellow Pages and look at some of the service providers that are in those Yellow Pages and if we're not very careful with how we handle sale for resale, a lot of those names....won't be there next year".
Apr 23,1987	Final passage of Conference Committee Report on the Sales Tax on Services by Senate 24 / 14 and House 83 / 31. Signed into law by Governor Bob Martinez later that night.
Apr 29, 1987	NBC television network announces it will pull its 1988 affiliates' convention out of Orlando because of the services tax.
May 1, 1987	The Florida Bar sues the state of Florida, claiming the services tax is unconstitutional.
May 5, 1987	The Florida Association of Broadcasters announces an advertising campaign calling for repeal of the services tax.
May 12, 1987	Gov. Bob Martinez asks the Florida Supreme Court for an advisory opinion upholding the tax on services.

Oct 8, 1987	Legislature adjourns.
Oct 9, 1987	SB 5-B vetoed by Gov. Martinez.
Oct 12, 1987	Gov. Martinez calls Legislature back into session again with no specific proposal.
Oct 14, 1987	Legislature adjourns after taking no action.
Dec 4, 1987	House F & T Chairman issues press release calling for repeal of the tax on services with no replacement revenue.
Dec 8, 1987	Senate President & House Speaker call a special session of the Legislature.
Dec 8, 1987	Senate President John Vogt and Speaker Jon Mills convene a special session of the Legislature
Dec 9, 1987	House Rules Committee separates the issue into two parts-a clean bill to repeal without replacement and a clean bill to increase the rate 1%.
Dec 9, 1987	Senate passes a bill to repeal and replace with 1% increase in the rate all in one bill. House takes up the Senate bill instead of two clean House bills. Senate bill passes House 75/42.
Jan 1, 1988	Sales tax on services is repealed.
Feb 1, 1988	Sales tax increases from 5% to 6%.

1987 Sales Tax on Services clips

1/16/87

Service list grows, tax shock spreads

Gardner

By John C. Van Gieson

SENTINEL TALLAHASSEE BUREAU

TALLAHASSEE — Floridians who borrow money to buy houses or cars could be hit with a 5 percent sales tax on the interest on their loans.

Students at state universities could be required to pay the sales tax on their tuition.

And families who adopt a baby could be required to pay the sales tax on the adoption fees.

Those possibilities were raised Thursday to surprised lobbyists and members of the Sales Tax Exemption Study Commission by the Department of Revenue, which expanded the list of services it says are subject to the sales tax under a 1986 law.

As of July 1, the law levies the sales tax on more than 100 professional services. The commission will recommend to the Legislature if any services should be exempted from the sales tax.

Rep. Bud Gardner, D-Titusville, chairman of the House Finance and Taxation Committee and a member of the commission, said lawmakers never even considered

Please see **TAX, A-6**

TAX

From A-1

the possibility that interest, tuition and adoption fees were services that should be taxed.

But James Francis, director of tax research at the Department of Revenue, said agency officials realized in the process of updating revenue estimates that the law requires many more services to be taxed than previously thought.

Francis said he was not advocating that those services should be taxed, but, "As an economist, when a bank gives you a loan you are consuming a service."

He said when new revenue estimates are completed, the projection of income from taxing services will probably double, from an estimated $1.3 billion to about $2.7 billion.

A sales tax on interest would be one of the major components in that increase, raising an estimated $511.3 million in the first full year of implementation. The previous estimate of a sales tax on banking services was $6.3 million.

"You can imagine our shock and indeed chagrin when we found out the estimate for revenues to be generated from taxing the entire financial services industry is not $6 million but half a billion dollars," said Orlando attorney Tom Cardwell, representing the Florida Banking Association.

A sales tax on interest would mean that the monthly bill for homeowners who pay $700 a month in interest on their mortgages would rise to $735.

"It is not a tax on banks because banks are not going to pay it," Cardwell said. "Who is going to pay it is everybody who borrows."

Jack Skelding, lobbyist for the Florida League of Financial Institutions, said a sales tax on interest would make it harder for moderate income families to qualify for mortgage loans.

"You have the potential of cutting out a large percentage of the people from home ownership," he said.

The law also would impose the sales tax on the interest financial institutions pay depositors on savings account balances and certificates of deposit, Skelding said.

Lobbyists and state officials said the law will be challenged in courts if the legislature allows the tax to be levied on the interest paid toward mortgages and other consumer loans.

"I think we're going to see a real court battle on this," Cardwell said.

"If we get sued, hopefully we'll have lawyers being taxed by that time and we'll at least get the benefits," Rep. Sam Bell, D-Ormond Beach, the chairman of the House Appropriations Committee, joked after the meeting.

Bell

Education and social service lobbyists appealed to the commission to recommend that the Legislature assure that tuition and social services are not taxed.

A typical junior at a state university now pays $1,065 a year in tuition. A sales tax would raise that to $1,118.25.

The notion of taxing adoption fees seemed especially repugnant to commission members.

"If you want to get some press, I think we ought to just send out a press release that we want to tax adopted babies," said Phil De Montmollin, a Gainesville lawyer.

Some commission members pressed for an immediate vote against taxing social services. But chairman Randy Miller, the director of the Department of Revenue, delayed action until his agency completes its revenue estimates and list of services it says would be subject to the sales tax.

"I don't believe there's a person on this commission that intends to tax adoption services," Miller said.

57⅞	+2⅞
25⅞	+⅜
160	—
49⅞	-⅝
56⅞	+⅛
13⅞	—
45⅞	+1
37⅞	+⅝
13⅞	+⅜
46	+⅝
4⅞⅜	+1⅞

SPACE COAST STOCKS

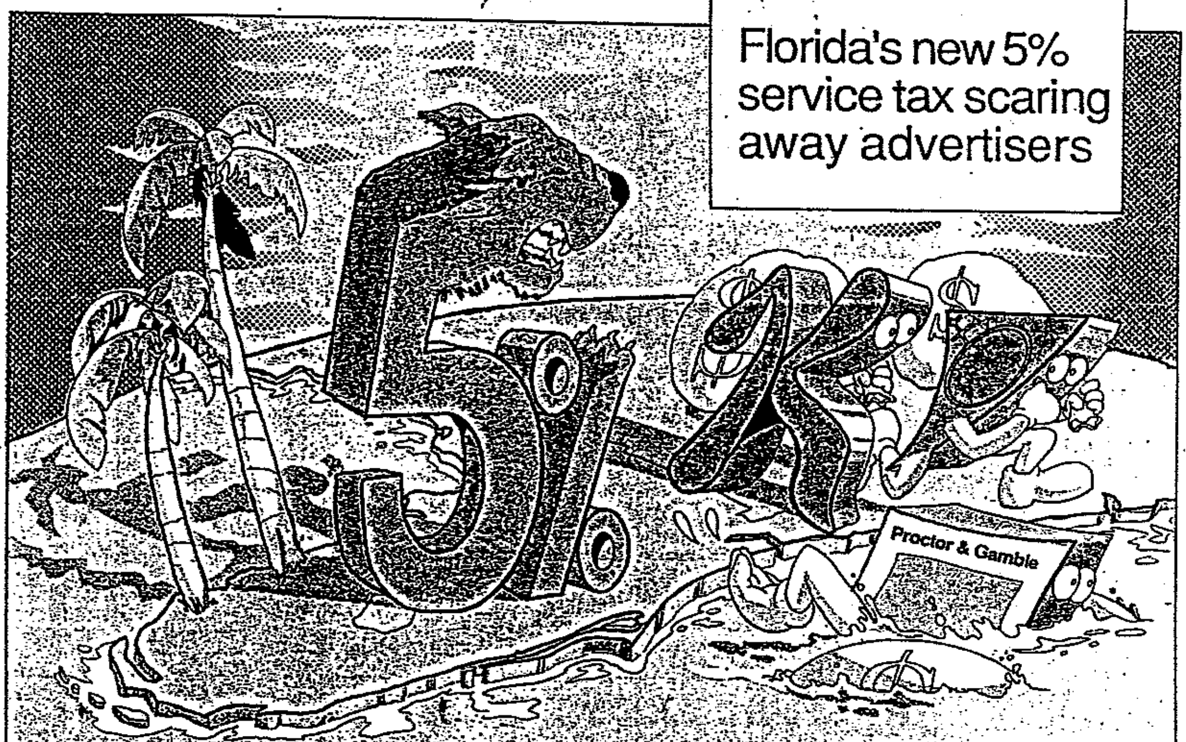
FOR THE WEEK

Company	Close	Chg
AM Int'l	6⅞	+⅞
Astrotech	⅝	—
Barnett Bank	37	-⅝
DBA Systems	15	+1
EG&G	32	—
First Am. Bank/Trust	8⅞	-⅞
First Florida	30⅞	+⅜
Fla. National Bank	21⅞	—
Gannett	49	+1
Gen. Dev. Corp.	19⅞	-⅞
Grumman	26	+⅞
Harris Corp.	36⅞	+⅜
Lockheed	50⅞	+⅞
McD-Doug	68⅞	+⅞
Opto Mechanik	6⅞	+⅞
Rockwell	26⅞	+⅜
SSS	2⅞	—
S'east Banks	26⅞	+⅜
Suntrust	23	—
TRW	53⅞	+2⅞

Media suffer from ad tax boycott

'It'll cost us millions'

Florida's new 5% service tax scaring away advertisers



Kevin Hand, FLORIDA TODAY

By Daniel Horgan II
FLORIDA TODAY

Newspaper, radio and television executives in Brevard County and around the state say they'll lose millions of dollars collectively in ad revenue when the state's new 5 percent services sales tax takes effect July 1.

Television stations, the target of an advertising boycott, will be hit hardest, executives say, especially in border cities like Jacksonville, where one station is predicting third-quarter losses of up to $500,000.

"We probably could be talking about well over a half-million (dollars)," said Ray Davis, vice president and general manager of WNFT in Jacksonville. "Over the long haul, it'll cost us millions."

The major advertisers boycotting Florida because of the tax are RJR Nabisco Inc., Kellogg Co., Kraft Inc. and General Foods Corp. Other companies that have announced they will reduce or withdraw advertising because of the tax are Proctor & Gamble Co., Frigidaire, Campbell Soup Co. And the list is growing, television stations say.

Executives with two of the three Orlando television stations that serve Brevard say they've already lost advertisers.

WESH Channel 2 already has lost from 10 to 12 advertisers because of the tax, including Proctor & Gamble, said Nolan Quam, the station's president and general manager.

"As we near July 1 and there is no retraction (of the tax), we'll see the floodgates open," he predicted. "I'm deeply concerned."

WESH and other members of the Tallahassee-based Florida Association of Broadcasters are lobbying for the tax's repeal, but concede that isn't likely.

At WCPX Channel 6, "a couple dozen" advertisers have pulled their business in the past few weeks to protest the tax, said Mike Schweitzer, vice president and general manager. They include Pet Milk, Proctor & Gamble, Nabisco, Zayre and Kellogg, Schweitzer said.

A number of other companies have subtracted the 5 percent tax from their ad spending, even though the tax hasn't gone into effect yet, he said.

After the tax goes into effect $100,000 in ad revenue by September, Schweitzer said.

"What we told the governor would happen is exactly what's happening. Advertisers will not increase their spending. This will turn out to be nothing more than a gross income tax on the media," he said.

WAYK Channel 56, the family-owned independent station in Melbourne, doesn't carry any national advertising, so it hasn't been affected by the boycott, said Debbie Varecha, the station's assistant manager.

Radio and newspaper advertising also will be subject to the new tax. Employees of area newspapers and radio stations say that while they will escape the boycott, they will probably lose ad revenue as a result. Advertisers will subtract the 5 percent tax from their advertising budgets, most say.

"The immediate reaction is we'll lose up to 5 percent in retail (advertising)," said Mort Goldstrom, an advertising spokesman for The Miami Herald.

Retailers cannot afford to stop advertising locally, but many will be unwilling to absorb the cost of

advertisers will say 'We've got no more money' " in the ad budget.

Major retailers in the state already have calculated their subtract the 5 percent from their advertising expenditures, said Frank Vega, publisher of FLORIDA TODAY.

AM and WSSP-FM in Cocoa will be forced to absorb the cost of the tax, said Bob Clarke, the stations' vice president and general manager.

The media will be liable for the new tax whether or not advertisers decide to pay it, and some have already told the station they won't pay, he said.

The station has left several jobs that opened recently unfilled to make up for the added costs, Clarke said.

"I dont think there's any question the station will lose revenue," said Ray Kassis, president and general manager of WWBC-AM and WMIE-FM in Cocoa.

It's too early to tell just how much money the station could lose, he said. "I think most of us are still in shock, including the advertisers."

Kassis and other media executives blasted Gov. Bob Martinez for levying what they say is a hidden tax on the state's media.

"It's an insidious tax ... Florida does not need that kind of Mafia-style taxation," he said.

The tax "is a wolf in sheep's clothing," Kassis said.

New sales tax won't keep firms away, official claims

While media executives say Florida's new services sales tax will rob them of valuable advertising revenue, the tax won't keep manufacturing companies from coming to Brevard County, according to the county's chief economic development official.

Large companies such as manufacturers can expect to pay thousands of dollars more in taxes when the new 5 percent tax becomes effective July 1.

Still, Brevard's assets outweigh the disadvantage of an additional tax, said John McCauley, executive director of the Brevard Economic Development Council.

"My gut feeling is that after the newness wears off, after six months, it will not be a major factor in the (attractiveness) of Brevard," McCauley said.

When included with the county's "total package" of location, available services and quality of life, the tax will be a minor factor, he said.

Of those firms that have been considering Brevard as a possible site to set up shop, all have inquired about the levy but none appear to have been scared off, he said.

— Daniel Horgan II

Gardner seeks year extension of some sales tax exemptions

By Vincent Willmore
FLORIDA TODAY

Saying an across-the-board repeal of sales tax exemptions could poison the state's business climate, a Brevard legislator called Thursday for a one-year extension of some exemptions to better analyze the consequences.

But Rep. Winston "Bud" Gardner expects a special legislative commission to agree with Gov. Bob Martinez's recommendation that only a small number of services remain exempt from the state's 5 percent sales tax.

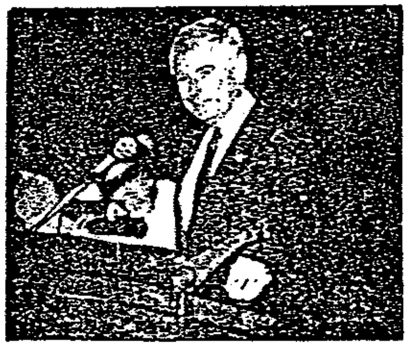
Gardner, D-Titusville, is a member of the commission and also heads the House Finance and Tax Committee. The commission, which first met Dec. 1, is expected to vote on its recommendations Thursday.

"I think we need a bit longer than one or two months to look at the economics of what would happen to some businesses as a result of particular exemptions being removed," Gardner said.

"If it puts a business in Florida at a competitive disadvantage with a business outside the state, I think we ought to seriously consider not removing that exemption.

"We should extend the sunset (expiration date) for a year on some of these exemptions so we would have have a better opportunity to examine the economic impact."

Gardner made his remarks following a lecture on the state budget process at Brevard Community College in Cocoa. During the lecture, he said businesses planning to move to Florida may have second thoughts if they have to pay new taxes.



BUD GARDNER: Lawmaker spoke Thursday at the Center for Lifelong Learning at Brevard Community College's Cocoa campus.

> "I think we need a bit longer than one or two months to look at the economics of what would happen to some businesses as a result of particular exemptions being removed."
>
> — Bud Gardner, Titusville legislator

"I think it would send a bad signal if we suddenly removed those exemptions," he said.

All exemptions, except those on food and most drugs, are set to expire July 1 unless the Legislature re-enacts them this spring. Gov. Bob Martinez is proposing keeping exemptions only on health care, social services, interest on loans, insurance services and agriculture services directly related to the production of food.

Gardner agreed those services should be exempt and said he expects the special commission to agree.

The expiration of certain other exemptions — such as those on horse feed, chlorine for swimming pools and pet grooming — should cause little controversy, Gardner said.

But other services that soon may taxed either are necessities or important to the state's business climate, Gardner said. That list — which includes fees charged by accountants, attorneys and advertising agencies — needs closer examination, he said.

Gardner said the reaction of the special commission has been favorable to his proposal of a one-year extension of some exemptions, but "there likely will be more of an inclination to go along with (Martinez's) recommendation."

■ Realtors plan suit, 8B.

AM 33,000
Sun 37,000

MAR-22-87

Repeal of exemptions: an insidious new tax

10

Does the Legislature really know what it is doing with repeal of sales tax exemptions on services?

The ease with which the exemption-repeal bandwagon is rolling through the Capitol suggests that it does not. And with the 1987 legislative session just three weeks off, the implications for Floridians of this rogue law are frightening.

With a conservative coalition that includes the governor's office, the speaker of the House and the president of the Senate all riding the repeal bandwagon, it is going to be difficult for opponents to stop it long enough to study its full impact. But someone must, for the state's leaders seem oblivious to the damage that massive sales tax repeal can have on Florida's economy.

We are not talking here just about the mandated repeal of sales tax exemptions on services dear to senior citizens: doctor fees, prescriptions, hospital bills and the like. Those taxes on basic necessities would create new burdens on limited-income citizens. Almost certainly those exemptions will be restored; no politician is foolish enough to risk the voter wrath that taxing such necessities would create.

What is more worrisome, though, are the repealed tax exemptions on services that the average citizen thinks about less often — but which will inevitably raise the cost of day-to-day living. These include insurance, real estate, legal, investment and advertising services. As the law is worded, it also can be interpreted to apply to every employee's wages — it provides for taxing of all "services," without defining the word, and one's labor can arguably be called a "service."

So loosely was the repeal legislation drafted by last year's Legislature, and so broad its potential, that some lawyers think its actual revenue potential may be as high as $5 billion — while the Legislature expected only about $1.6 billion. On some of the services — advertising, for example — it will create a collection nightmare and an enforcement impossibility.

Of course Florida needs additional revenue to maintain its roads, bridges, prisons and schools, and to provide essential social services. But the long-range effect of so sweeping an expansion of its sales tax would be to raise consumer prices, reduce employment, discourage business expansion and drive away potential new industries considering relocating in the state. Several companies have already announced they are "rethinking" planned moves to Florida because of the implications of the sales tax legislation.

What made a sales tax on services so attractive to last year's Legislature are its supposed "hidden" and "hit-the-affluent" aspects. The perception is that it does not show up at the retail store cash register, and applies to services used more by wealthier persons than the common man. But those are false perceptions. Most most people use many of these professional services, and, even if they don't the businesses they patronize do. So the service tax will have a big impact at the cash register.

Take the retailing industry, for example. The amount of services purchased by retailers which will be subject to sales tax will increase by 106 percent. That extra sales tax paid by retailers likely will make up from...you, the customer.

Besides the cumulative effect, the service tax also will have a pyramiding effect that appears to violate state statutes (Sec. 212.081 3b) prohibiting double taxation. Besides the existing 5 percent sales tax on the shoes, the retailer will have 5 percent tacked onto his freight bill by the trucker who brings a load of shoes to his store, 5 percent taxed on the ads he places to announce his shoe sale, and 5 percent added for the services of his accountant, banker, insurance agent and lawyer. Talk about double taxation — this is quadruple and quintuple taxation!

Once before in its search for a "painless" tax the Legislature imperiled Florida's fine reputation as a place to do business: the unitary tax debacle of 1983. That tax, levied on the overseas profits of Florida companies, was quickly repealed after its threat to competitiveness became known.

Florida has a good reputation as a place to do business. It is jeopardizing that reputation with the scope of these projected service taxes — broader than any other state in the union has yet enacted, and ultimately self-defeating as business contracts and sales shrink.

POL

Profiles: Legislature's Top Sales—Tax Negotiators

Rep. Winston 'Bud' Gardner

Bud Gardner racing to put the sales-tax bill to a House vote: "It's like a turnip-green sandwich. You have to eat it fast before the pot liquor leaks through the bread."

Bud Gardner on the House floor: "Some have said that our low tax base is a magnet for our own destruction . . . I prefer to use a more blunt term, which comes from my days in the Marines. We called it crapping in your mess kit."


Gardner

Bud Gardner negotiating the sales-tax bill with the Senate: "It's like trying to yo-yo with 10 yo-yos at one time. There's so many strings I can't get a hold of all of them."

Winston "Bud" Gardner Jr., a 48-year-old Alabama-born Marine and Space Coast engineer and entrepreneur, is both one of the funniest and hardest-working members of the Florida House.

As chairman of the Finance and Taxation Committee this year, Gardner, D-Titusville, is at the nerve center of the biggest issue he has handled in his nine-year legislative career — the House's point man in negotiations with the Senate on the new tax on services.

"Technically, he has the kind of mind that can handle the analytical detail in this bill," says Speaker Jon Mills, D-Gainesville. "Second, people can trust him . . . Third, he has a reputation for not liking taxes."

A sharp-dresser, Gardner's actually no high-roller. He has a 29 percent interest in Gardner-Griffith Inc. Engineers, a nine-employee firm. He reports a net worth of just $85,000. He reported more than half of his income last year as legislative pay, $15,000.

He runs a "home industry" on the side making key chains and necklaces.

Gardner didn't ask for the job he has now. He wanted to be the House budget chairman, the job future speaker Sam Bell of Ormond Beach holds.

"The speaker thought I'd be better suited for this job," Gardner says. "We had a long-standing disagreement over it. Basically, the reason I finally decided to accept [the Finance and Tax job] was, you can either watch from the sidelines or you can have an effect in the middle of it."

In the midst of the sales tax negotiations, Gardner's a hard-charger — he still serves in Marines Reserves. In the heat of secret talks, his face flushes beet red.

"He sometimes gets so wrapped up that his vessels take a beating," says Rules Chairman Carl Carpenter, D-Plant City. "He's probably one of the hardest working members of either house, and when he takes on a project and you want to challenge him on any issue, you better have done your homework."

Gardner's future is uncertain. He'll run Finance and Tax for two years, but he's no ally of the next speaker, Tom Gustafson of Fort Lauderdale.

Gardner helped Carl Ogden of Jacksonville try to defeat Gustafson.

"Tom has worked hard at trying to get elected speaker," Gardner says. "People like me, who have been in leadership a while, I think Tom would have difficulty flushing us."

— MARK SILVA

Sen. Tim Deratany

How crucial is Sen. Tim Deratany to settling the proposed sales tax on professional services?

After helping pull the Senate version of the tax package together in the first two weeks of the legislative session, Deratany, chairman of the Finance and Tax Committee, went home for the Easter weekend to relax. But as he was playing tennis — his favorite hobby — he wrenched his back.


Deratany

Fearing the discomfort of an airplane ride, Deratany, R-Indialantic, told Senate President John Vogt he might have to miss Monday's first big meeting of a House-Senate negotiating committee.

"John came and got me and drove me to Tallahassee Sunday night," Deratany said. Wearing a corset and walking with a noticeable limp, Deratany not only appeared at Monday's meeting but is steering negotiations with the House this week.

Deratany, 47, who pegged his net worth last June at $752,800, has said he knows all too well just how painful the tax on services will be. His own business interests range from a hairstyling salon to rental properties — all of which will feel some impact from the tax.

"You don't have to tell me what the average businessman out there is going to go through with this," he scolded an opposing senator at one meeting.

Deratany, a native of Michigan, moved to Florida in 1947. He is married and has two children.

He served six years in the state House before he ran for the Senate in 1984. After years in the minority, he became a committee chairman last fall after the Nov. 4 election allowed a conservative coalition to regain control of the Senate and elect Vogt president.

Deratany, who worked his way up through local Treasure Coast political ranks, is loyal to the Senate coalition and to Republican Gov. Bob Martinez. He has dismissed questions about his change in position from last year, when he opposed the tax on services.

And he refused to be drawn into the heated debate when dissident members of his own committee spoke out after Vogt stacked Finance and Tax two weeks ago to ensure that harmful amendments would be kept off the bill.

— PAUL ANDERSON

4-23
HW

SPACE COAST STOCKS

FOR THE WEEK

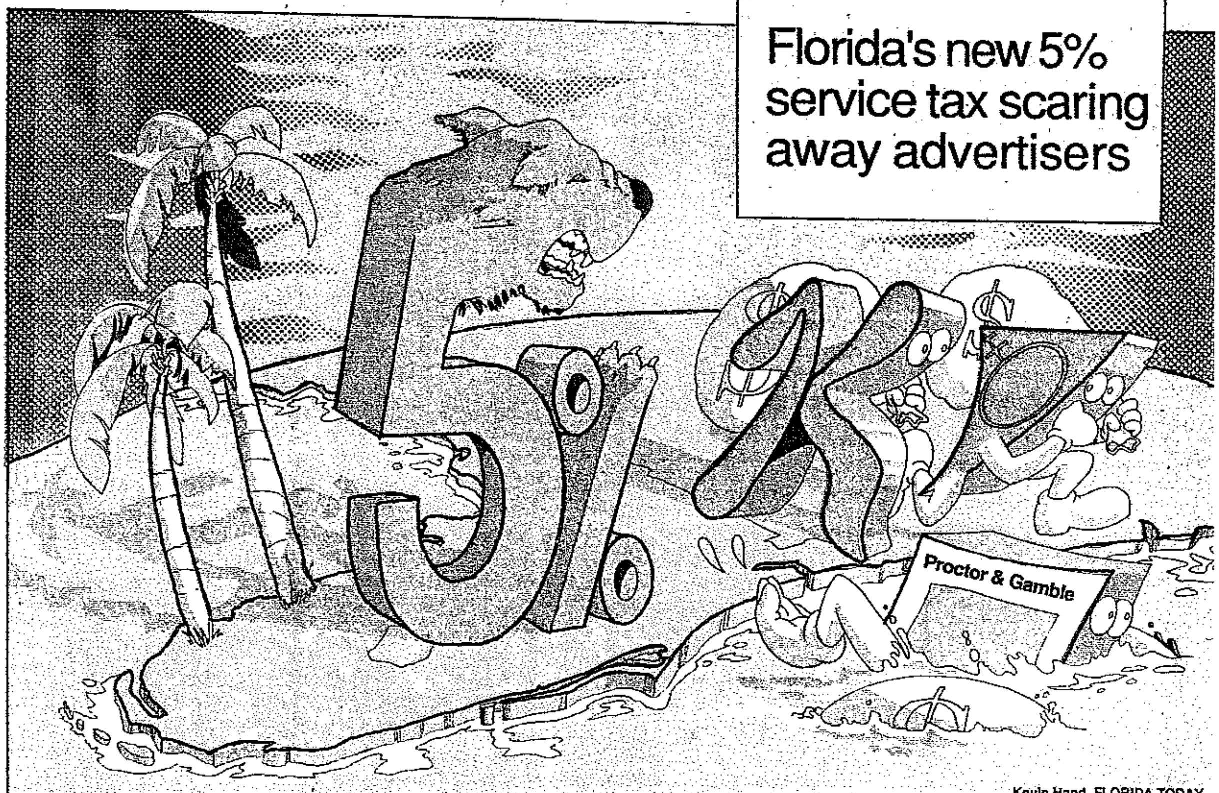
Company	Close	Chg
AM Int'l	6⅝	+⅛
Astrotech	⅝	—
Barnett Bank	37	-⅝
DBA Systems	15	+1
EG&G	32	—
First Am. Bank/Trust	8¼	-⅛
First Florida	30⅞	+⅝
Fla. National Bank	21¼	—
Gannett	49	+1
Gen. Dev. Corp.	19⅞	-⅛
Grumman	26	+⅞
Harris Corp.	36⅝	+¾
Lockheed	50⅝	+⅛
McD-Doug	68⅝	+¾
Opto Mechanik	6¼	+½
Rockwell	26¾	+¾
SSS	2⅝	—
S'east Banks	28½	+⅜
Suntrust	23	—
TRW	53¼	+2⅝

6/7/87

Media suffer from ad tax boycott

'It'll cost us millions'

Florida's new 5% service tax scaring away advertisers



Kevin Hand, FLORIDA TODAY

By Daniel Horgan II
FLORIDA TODAY

Newspaper, radio and television executives in Brevard County and around the state say they'll lose millions of dollars collectively in ad revenue when the state's new 5 percent services sales tax takes effect July 1.

Television stations, the target of an advertising boycott, will be hit hardest, executives say, especially in border cities like Jacksonville, where one station is predicting third-quarter losses of up to $500,000.

"We probably could be talking about well over a half-million (dollars)," said Ray Davis, vice president and general manager of WNFT in Jacksonville. "Over the long haul, it'll cost us millions."

The major advertisers boycotting Florida because of the tax are RJR Nabisco Inc., Kellogg Co., Kraft Inc. and General Foods Corp. Other companies that have announced they will reduce or withdraw advertising because of the tax are Proctor & Gamble Co., Frigidaire, Campbell Soup Co. And the list is growing, television stations say.

Executives with two of the three Orlando television stations that serve Brevard say they've already lost advertisers.

WESH Channel 2 already has lost from 10 to 12 advertisers because of the tax, including Proctor & Gamble, said Nolan Quam, the station's president and general manager.

"As we near July 1 and there is no retraction (of the tax), we'll see the floodgates open," he predicted. "I'm deeply concerned."

WESH and other members of the Tallahassee-based Florida Association of Broadcasters are lobbying for the tax's repeal, but concede that isn't likely.

At WCPX Channel 6, "a couple dozen" advertisers have pulled their business in the past few weeks to protest the tax, said Mike Schweitzer, vice president and general manager. They include Pet Milk, Proctor & Gamble, Nabisco, Zayre and Kellogg, Schweitzer said.

A number of other companies have subtracted the 5 percent tax from their ad spending, even though the tax hasn't gone into effect yet, he said.

After the tax goes into effect, the station will lose at least $100,000 in ad revenue by September, Schweitzer said.

"What we told the governor would happen is exactly what's happening. Advertisers will not increase their spending. This will turn out to be nothing more than a gross income tax on the media," he said.

WAYK Channel 56, the family-owned independent station in Melbourne, doesn't carry any national advertising, so it hasn't been affected by the boycott, said Debbie Varecha, the station's assistant manager.

Radio and newspaper advertising also will be subject to the new tax. Employees of area newspapers and radio stations say that while they will escape the boycott, they will probably lose ad revenue as a result. Advertisers will subtract the 5 percent tax from their advertising budgets, most say.

"The immediate reaction is we'll lose up to 5 percent in retail (advertising)," said Mort Goldstrom, an advertising spokesman for The Miami Herald.

Retailers cannot afford to stop advertising locally, but many will be unwilling to absorb the cost of the tax, he said. "I think some advertisers will say 'We've got no more money' " in the ad budget.

Major retailers in the state already have calculated their 1987 budgets, and many will subtract the 5 percent from their advertising expenditures, said Frank Vega, publisher of FLORIDA TODAY.

Sister radio stations WRKT-AM and WSSP-FM in Cocoa will be forced to absorb the cost of the tax, said Bob Clarke, the stations' vice president and general manager.

The media will be liable for the new tax whether or not advertisers decide to pay it, and some have already told the station they won't pay, he said.

The station has left several jobs that opened recently unfilled to make up for the added costs, Clarke said.

"I dont think there's any question the station will lose revenue," said Ray Kassis, president and general manager of WWBC-AM and WMIE-FM in Cocoa.

It's too early to tell just how much money the station could lose, he said. "I think most of us are still in shock, including the advertisers."

Kassis and other media executives blasted Gov. Bob Martinez for levying what they say is a hidden tax on the state's media.

"It's an insidious tax ... Florida does not need that kind of Mafia-style taxation," he said.

The tax "is a wolf in sheep's clothing," Kassis said.

■ Other states study tax, 2E.

New sales tax won't keep firms away, official claims

While media executives say Florida's new services sales tax will rob them of valuable advertising revenue, the tax won't keep manufacturing companies from coming to Brevard County, according to the county's chief economic development official.

Large companies such as manufacturers can expect to pay thousands of dollars more in taxes when the new 5 percent tax becomes effective July 1.

Still, Brevard's assets outweigh the disadvantage of an additional tax, said John McCauley, executive director of the Brevard Economic Development Council.

"My gut feeling is that after the newness wears off, after six months, it will not be a major factor in the (attractiveness) of Brevard," McCauley said.

When included with the county's "total package" of location, available services and quality of life, the tax will be a minor factor, he said.

Of those firms that have been considering Brevard as a possible site to set up shop, all have inquired about the levy but none appear to have been scared off, he said.

— Daniel Horgan II

FLORIDA TODAY
EDITORIAL PAGE

"Our goal is to help you preserve the best traditions of this historic Birthplace of the Space Age and to help you ensure that all Brevard County will realize the full potential for its bright tomorrow."

—Allen H. Neuharth, Chairman and Founder, March 21, 1966

Frank Vega, Publisher | Edward E. Manassah, Executive Editor | Nick White, Editorial Page Editor

New sales tax law is still confusing, unfair, clouded

This week's limited ruling of support by the Florida Supreme Court for our state's new sales tax on services by no means settles this controversial issue.

Lawsuits can be expected in federal courts challenging the constitutionality of portions of the law and political pressure is likely to continue mounting for legislative changes in it, either in a special session or in next spring's regular session.

Countless problems remain and a huge amount of confusion exists in the implementation of the law which took effect July 1. Unfortunately, we allowed some misinformation about the new 5 percent tax to be spread by a reader in a letter to the editor Thursday. The letter indicated that young people who mow a few neighborhood lawns or do baby sitting are now obligated to collect the tax and send it to the state. That is not true, because this type of irregular work is classified as "casual labor" and is exempt from the tax. However, if someone runs a regular lawn maintenance business or baby sitting service, he or she would be responsible for collecting the service tax.

The advertising tax remains one of the most controversial provisions of the tax and is a portion that is certain to be subjected to federal court review. In fact, advertising interests have vowed to take the question all the way to the U.S. Supreme Court if necessary. (One of the seven Florida Supreme Court justices, Stephen Grimes, dissented from the recent ruling and specifically named the ad tax section as being unconstitutional in his opinion.

Appliance store executive Vince Anderson pointed out for us how the 5 percent tax on advertising actually costs him 20 percent. It is because his business, Topline Appliances, does a lot of what is called "co-op" advertising. Here is how it works: When Topline spends money advertising a particular brand of television sets, say Zenith for example, the manufacturer foots 75 percent of the bill and the local stores pay 25 percent. Hence, if $200,000 is spent, the manufacturer pays $150,000 and Topline kicks in $50,000.

The new sales tax on $200,000 amounts to $10,000. The manufacturer, which isn't located in Florida, will continue paying 75 percent of the cost of the advertising, but will not pay anything toward this state tax. This means that Topline's net expense for the advertising is now $60,000. That $10,000 increase, in Anderson's view, means the tax is actually costing him 20 percent, not 5 percent ($10,000 is 20 percent of $50,000).

"There must be thousands of other businesses in the state that are in the same situation," the disgruntled Merritt Island businessman says. He is no doubt quite correct, because co-op advertising is very commonly used by national manufacturers. It is not always 75-25, but even on a 50-50 basis, the impact of the ad tax for a local company selling heavily advertised items would be great indeed.

State officials say the tax on services is expected to produce $750 million in additional revenue for the state in the current fiscal year and about $1.2 billion next year. We will be surprised if the actual collections prove to be far short of that number for the first year — and that's not counting the extra costs the state will have to pay for legal services to try to defend the validity of the law.

Business D

Surviving the advertising exodus

Broadcasters, publishers feel the tax pinch

By Denise L. Smith
OF THE SENTINEL STAFF

Three weeks ago life became a lot more complicated for Tom Maguire.

Maguire, general manager of Tallahassee TV station WTWC-Channel 40, became responsible for figuring out how his station is going to collect Florida's new sales tax on advertising. The tax, which went into effect July 1, requires that advertisers pay the 5 percent levy on all advertising that reaches a Florida audience.

Maguire's station, an NBC affiliate, broadcasts into Georgia, so his advertisers pay the tax only on the cost of the advertising that reaches the Florida audience. He says he is at a competitive disadvantage with another VHF station that has a larger percentage of its audience outside of Florida and with a station in Albany, Ga., that is not required to collect the tax at all, even though its broadcasts reach Florida.

"We've lost advertising dollars every day we operate," Maguire said, refusing to specify how much. "The advertisers are making it tough on stations in Florida ... so other states don't follow suit. We folks are going to be the whipping boys so (advertisers) don't get hit in other states."

Florida broadcasters and, to a lesser extent, publishers charge that national advertisers are demonstrating what they will do elsewhere if other states start taxing advertising.

Many managers of radio or TV stations say that their ad revenues already have slipped 15 percent to 25 percent behind last year's year-to-date revenues, according to the Florida Association of Broadcasters. Few stations have embarked on efforts to control the damage, however, other than to support efforts to have the ad tax repealed or overturned in court.

Executives at other broadcast and publishing concerns — WSVN-TV in Miami and the *Fort Lauderdale News and Sun-Sentinel*, for example — say that, despite the tax, their sales are ahead of last year's.

Estimates of the potential damage to advertising revenues vary greatly. Harry Handley, a broadcast consultant in Orlando, estimated that, if major advertisers continue their current pattern of cutting their ad expenditures in the state, Florida broadcast and print companies could lose up to $63 million by the end of 1987. He described such a loss as "not very substantial" — about 1.2 percent of the total revenues of the state's media companies, which bring in $5.5 billion a year.

Handley said he based his prediction on the assumption that 3 percent of the national advertisers buying advertising in Florida would carve their budgets in the state by 5 percent. He also figured in the previous expenditures of two dozen national advertisers who have announced that they no longer will buy ads in Florida.

Several major advertisers — Johnson & Johnson Inc., Kimberly-Clark Corp., Rust-Oleum Corp., Carter-Wallace Inc. and General Mills Inc. — have asked the networks to block their nationally aired commercials from Florida stations. In addition, the Association of

Please see PINCH, D-3

SARAH KEYS/SENTINEL

Hotels cope with convention losses

By John Hill
OF THE SENTINEL STAFF

Twelve days ago, Hasbro Inc., the billion-dollar toy manufacturer, had a special announcement from its Rhode Island headquarters.

A new toy line? A hostile takeover? No. It wanted to announce that, because of Florida's new tax on advertising, the company is canceling its national sales meeting in Orlando this fall.

Hasbro is not alone. Kraft Inc., Warner-Lambert Co., RJR Nabisco Inc. and other companies are canceling — with much fanfare — meetings and conventions in Florida to protest the state's decision to extend the 5 percent sales tax to previously exempt services, especially advertising.

Hasbro's pullout cost the Stouffer Orlando Resort hotel and the Orlando Marriott on International Drive 4,200 room-nights over three weeks.

It cost Hasbro, too — by pulling out just three months before the convention, the company forfeited an undisclosed amount it had deposited with the Stouffer.

Cancellations in protest of the tax have been getting a lot of attention in the past few weeks, in part because of the types of businesses involved, said Charlie Johnson, an analyst with Laventhol & Horwath, an accounting firm that does consulting work for the hotel industry.

Some of the companies that are canceling meetings are adept at advertising and marketing and are run by people who make their living by publicizing things.

"What we're seeing is a well-publicized blitz," Johnson said. "They're all advertising-related companies. I personally think they're making a mountain out of a molehill."

Rueben Aguilar, vice president for communications at the Greater Miami Convention and Visitors Bureau, agreed, saying he thinks the publicity probably is aimed at other states, not Florida.

"One of the things we have been unfortunate in is that Florida is the first of many states that have been considering this to enact it," he said. "I think there's a feeling that how we go, then others will go."

Determining how much convention business the state is losing is not easy. Major conventions usually are booked through county or city convention and visitors bureaus, but major hotels and resorts also recruit conventions and smaller but more

Please see HOTELS, D-3

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