

REVENUE ESTIMATING CONFERENCE

Tax: Sales Tax

Issue: Remote Sales

Bill Number(s): SB 126/HB 159

☐ **Entire Bill**

☒ **Partial Bill:** Sections 1,2,3,4,6, 8

Sponsor(s): Sen. Gruters/Rep. Clemons

Month/Year Impact Begins: 7/1/2020

Date of Analysis: 12/19/2019

Section 1: Narrative

a. Current Law: See attached section by section spreadsheet

b. Proposed Change: See attached section by section spreadsheet

Section 2: Description of Data and Sources

2017 and 2018 Calendar Year Sales Tax File

EDR Research on Top 1000 Internet retailers

2019-20 REC Monthly Estimates

Section 3: Methodology (Include Assumptions and Attach Details)

Used EDR research on Florida's likely share of the 2018 activity of the top 500 internet retailers not currently collecting and remitting sales tax to Florida of \$110.8 M in the high, \$87.4 M in the middle and \$64.0 M in the low. Assumed annual growth of 10% (adopted growth rate from 2019 analysis) to grow amounts into and throughout the forecast period. Converted from calendar year to fiscal year. Assumed rate of voluntary compliance with the proposed language for the high of 75% in the first year and growing by 5% in each year of the forecast period, for the middle of 60% in the high and growing 5% each year, and for the low of 50% also growing 5% each year in the forecast period. The compliance rate was applied to the remote sales activity forecast to estimate revenues from voluntary compliance with the proposed legislation.

Audit recoveries were estimated as follows:

Annual noncompliance amounts were identified by taking the difference between activity and voluntary compliance. For the high it was assumed there was a one- year lag to audit recoveries and in the first year following noncompliance, 30% of the noncompliant amount was recovered, in the second year following noncompliance, 30% of the remaining amount was recovered, and in the third year, 30% of the remaining noncompliant amount was recovered. For the middle it was assumed there was a two-year lag to audit recoveries and in the first year following the lag, 30% of the noncompliant amount was recovered, in the second year following the lag, 20% of the remaining amount was recovered, and in the third year, 10% of the remaining noncompliant amount was recovered. For the low it was assumed there was a three-year lag to audit recoveries, with recoveries of 20% in the first year following the lag and 20% in the second year.

To determine cash impacts, the assumed voluntary compliance amounts were summed with the assumed audit recoveries in each year of the forecast period. For the first year, 11/12th of the sum of assumed voluntary compliance and assumed audit recoveries was used. The recurring was developed by using the fifth year assumed voluntary compliance percentage applied to the fiscal year remote sales activity not currently remitting amount.

Local Option Sales Tax impact

Section 3 of the bill has an additional impact as it repeals and exception to the requirement to collect and remit local option sales tax for certain mail order entities with no physical presence in Florida. To estimate the impact of eliminating this provision, those sales tax dealers that were identified as out of state from the 2017 and 2018 Calendar Year Sales tax file were identified. These entities were broken into two cohorts – those that collected discretionary surtax and those that did not. The amount of sales tax for those that did not collect surtax were identified and grown into the forecast period using 15% annual growth for the high, 12% for the middle and 4% for the low. The high and middle growth rates were based on the growth in internet sales, which the low was based on the assumption that while the overall internet sales were growing at that high rate, some of these remote sellers would likely establish physical nexus requiring them to collect surtax under current law and thus resulting in a lower overall growth rate. The forecast amounts were then converted to state fiscal years. The amount of surtax was then estimated using the 14.5% relationship of local surtax to 6% sales tax derived from the underlying the 2020-21 fiscal year estimates from the REC Monthly Revenue Estimates Conference Workpapers. First year cash is 11/12th of recurring.

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Section 4: Proposed Fiscal Impact

State Sales Tax – Remote Sellers

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2020-21	\$96.7 M	\$133.7 M	\$61.1 M	\$88.8 M	\$37.3 M	\$56.9 M
2021-22	\$123.1 M	\$147.1 M	\$72.2 M	\$97.7 M	\$44.7 M	\$62.6 M
2022-23	\$151.6 M	\$161.8 M	\$98.8 M	\$107.5 M	\$53.7 M	\$68.9 M
2023-24	\$177.9 M	\$177.9 M	\$122.0 M	\$118.2 M	\$72.1 M	\$75.8 M
2024-25	\$198.2 M	\$195.7 M	\$142.1 M	\$130.0 M	\$91.2 M	\$83.3 M

Local Discretionary Surtax - Removal of Exemption for Certain Current Remote Sellers

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2020-21	\$52.5 M	\$57.3 M	\$49.2 M	\$53.6 M	\$40.8 M	\$44.5 M
2021-22	\$65.9 M	\$65.9 M	\$60.1 M	\$60.1 M	\$46.3 M	\$46.3 M
2022-23	\$75.8 M	\$75.8 M	\$67.3 M	\$67.3 M	\$48.1 M	\$48.1 M
2023-24	\$87.2 M	\$87.2 M	\$75.3 M	\$75.3 M	\$50.0 M	\$50.0 M
2024-25	\$100.3 M	\$100.3 M	\$84.4 M	\$84.4 M	\$52.0 M	\$52.0 M

List of affected Trust Funds:

Sales Tax Group

Local Discretionary Surtax

Section 5: Consensus Estimate (Adopted: 12/20/2019): The Conference adopted the middle impact but at a 5% growth rate for the remote sellers and the low for Local Discretionary Surtax - Removal of Exemption for Certain Current Remote Sellers.

State Sales Tax – Remote Sellers

	GR		Trust		Revenue Sharing		Local Half Cent	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2020-21	52.5	76.5	Insignificant	Insignificant	1.8	2.6	0.0	0.0
2021-22	65.2	80.2	Insignificant	Insignificant	2.2	2.7	0.0	0.0
2022-23	85.2	84.3	Insignificant	Insignificant	2.9	2.8	0.0	0.0
2023-24	98.9	88.5	Insignificant	Insignificant	3.3	3.0	0.0	0.0
2024-25	109.2	92.9	Insignificant	Insignificant	3.7	3.1	0.0	0.0

	Local Option		Total Local		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2020-21	7.9	11.5	9.7	14.1	62.2	90.5
2021-22	9.8	12.1	12.0	14.8	77.2	95.0
2022-23	12.8	12.7	15.7	15.5	100.9	99.8
2023-24	14.9	13.3	18.2	16.3	117.1	104.8
2024-25	16.5	14.0	20.2	17.1	129.4	110.0

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Local Discretionary Surtax - Removal of Exemption for Certain Current Remote Sellers

	GR		Trust		Revenue Sharing		Local Half Cent	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2020-21	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2021-22	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2022-23	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2023-24	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2024-25	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

	Local Option		Total Local		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2020-21	40.8	44.5	40.8	44.5	40.8	44.5
2021-22	46.3	46.3	46.3	46.3	46.3	46.3
2022-23	48.1	48.1	48.1	48.1	48.1	48.1
2023-24	50.0	50.0	50.0	50.0	50.0	50.0
2024-25	52.0	52.0	52.0	52.0	52.0	52.0

	A	B	C	D	E	F
1		EDR Estimate of Potential Sales Tax Revenue				
3		Growth Rate	5%			
4						
5		Forecast of Remote Sales Activity not currently remitting -Millions				
6		Calendar Year	High	Middle	Low	
7		2018	\$110,757,848	\$87,383,439	\$64,009,030	
8		2019	\$116,295,740	\$91,752,611	\$67,209,482	
9		2020	\$122,110,527	\$96,340,241	\$70,569,956	
10		2021	\$128,216,054	\$101,157,254	\$74,098,453	
11		2022	\$134,626,856	\$106,215,116	\$77,803,376	
12		2023	\$141,358,199	\$111,525,872	\$81,693,545	
13		2024	\$148,426,109	\$117,102,166	\$85,778,222	
14		2025	\$155,847,415	\$122,957,274	\$90,067,133	
15						
16		Fiscal Year Conversion - Forecast Period				
17			High	Middle	Low	
18		2020-21	\$125,163,291	\$98,748,748	\$72,334,204	
19		2021-22	\$131,421,455	\$103,686,185	\$75,950,915	
20		2022-23	\$137,992,528	\$108,870,494	\$79,748,460	
21		2023-24	\$144,892,154	\$114,314,019	\$83,735,883	
22		2024-25	\$152,136,762	\$120,029,720	\$87,922,678	
23						
24		Assumed Compliance Rate				
25			High	Middle	Low	Low - Recurring
26		2020-21	75%	60%	50%	70%
27		2021-22	80%	65%	55%	70%
28		2022-23	85%	70%	60%	70%
29		2023-24	90%	75%	65%	70%
30		2024-25	95%	80%	70%	70%
31						
32		Assumed New Remittances				
33			High	Middle	Low	Low - Recurring
34		2020-21	\$93,872,468	\$59,249,249	\$36,167,102	\$50,633,943
35		2021-22	\$105,137,164	\$67,396,020	\$41,773,003	\$53,165,640
36		2022-23	\$117,293,649	\$76,209,346	\$47,849,076	\$55,823,922
37		2023-24	\$130,402,939	\$85,735,514	\$54,428,324	\$58,615,118
38		2024-25	\$144,529,924	\$96,023,776	\$61,545,874	\$61,545,874

	A	B	C	D	E	F
39						
40		Noncompliance Amounts				
41			High	Middle	Low	
42		2020-21	\$31,290,823	\$39,499,499	\$36,167,102	
43		2021-22	\$26,284,291	\$36,290,165	\$34,177,912	
44		2022-23	\$20,698,879	\$32,661,148	\$31,899,384	
45		2023-24	\$14,489,215	\$28,578,505	\$29,307,559	
46		2024-25	\$7,606,838	\$24,005,944	\$26,376,803	
47						
48			High	Middle	Low	
49		Audit Lag	1 year	2 years	3 years	
50						
51		Assumed Audit Recovery Time - for amounts not remitted voluntarily				
52		Recovery year	High	Middle	Low	
53		First year	30%	30%	20%	
54		Second Year	30%	20%	20%	
55		Third Year	30%	10%	10%	
56		Fourth year		10%	10%	
57		Fifth Year		10%	10%	
58						
59						
60		Audit recoveries	High	Middle	Low	
61		2020-21	\$0	\$0	\$0	
62		2021-22	\$9,387,247	\$0	\$0	
63		2022-23	\$14,456,360	\$11,849,850	\$0	
64		2023-24	\$15,484,264	\$16,416,979	\$7,233,420	
65		2024-25	\$7,808,652	\$16,853,942	\$12,622,319	
66						
67		Total Revenues - Cash	High	Middle	Low	
68		First Year Cash (11/12)	\$86,049,762	\$54,311,811	\$33,153,177	
69		2020-21	\$93,872,468	\$59,249,249	\$36,167,102	
70		2021-22	\$114,524,411	\$67,396,020	\$41,773,003	
71		2022-23	\$131,750,009	\$88,059,196	\$47,849,076	
72		2023-24	\$145,887,202	\$102,152,493	\$61,661,745	
73		2024-25	\$152,338,576	\$112,877,718	\$74,168,193	
74						
75		Recurring Revenues	High	Middle	Low	
76		2020-21	\$118,905,126	\$78,998,998	\$50,633,943	
77		2021-22	\$124,850,382	\$82,948,948	\$53,165,640	
78		2022-23	\$131,092,901	\$87,096,395	\$55,823,922	
79		2023-24	\$137,647,547	\$91,451,215	\$58,615,118	
80		2024-25	\$144,529,924	\$96,023,776	\$61,545,874	

	A	B	C	D	E	F
81	Impact of requiring Local Option Surtax to be collected by all Remote Sellers					
82	Note - This impact focuses solely on those remote sellers remitting the state 6% sales tax but remitting zero local option.					
83						
84						
84	Calendar Year 2017					
85	County - Out of State	Count	6% Tax Collected	Surtax Collected	Surtax as a % of state 6%	
86	Collecting Surtax	15,134	\$2,635,059,222	\$265,289,537	10.1%	
87	Not Collecting Surtax	10,614	\$224,041,510	\$0	0.0%	
88	Total	25,748	\$2,859,100,732	\$265,289,537	9.3%	
89						
90	Calendar Year 2018					
91	County - Out of State	Count	6% Tax Collected	Surtax Collected	Surtax as a % of state 6%	
92	Collecting Surtax	16,721	\$2,928,284,293	\$296,462,588	10.1%	
93	Not Collecting Surtax	11,100	\$278,514,722	\$0	0.0%	
94	Total	27,821	\$3,206,799,015	\$296,462,588	9.3%	
95						
96	Source - REC Monthly Revenue Estimates					
97	2020-21 Sales Tape Estimate		\$29,749			
98	2020-21 Local Surtax Estimate		\$4,308			
99	Surtax as a % of state 6%		14.5%			
100						
101		High	Middle	Low		
102	Growth Rate	15%	12%	4%		
103						
104	Forecast - Remote sellers not collecting Local Surtax total Sales Tax					
105	Calendar Year	High	Middle	Low		
106	2017	\$224,041,510	\$224,041,510	\$224,041,510		
107	2018	\$278,514,722	\$278,514,722	\$278,514,722		
108	2019	\$320,291,930	\$311,936,488	\$289,655,311		
109	2020	\$368,335,719	\$349,368,867	\$301,241,523		
110	2021	\$423,586,077	\$391,293,131	\$313,291,184		
111	2022	\$487,123,989	\$438,248,307	\$325,822,831		
112	2023	\$560,192,587	\$490,838,103	\$338,855,745		
113	2024	\$644,221,475	\$549,738,676	\$352,409,974		
114	2025	\$740,854,697	\$615,707,317	\$366,506,373		
115						
116	Conversion to Fiscal Year					
117		High	Middle	Low		
118	2020-21	\$395,960,898	\$370,330,999	\$307,266,353		
119	2021-22	\$455,355,033	\$414,770,719	\$319,557,008		
120	2022-23	\$523,658,288	\$464,543,205	\$332,339,288		
121	2023-24	\$602,207,031	\$520,288,390	\$345,632,859		
122	2024-25	\$692,538,086	\$582,722,996	\$359,458,174		
123						
124	Surtax Impact	High	Middle	Low		
125	2020-21 Cash (11/12)	\$52,555,140	\$49,153,332	\$40,782,881		
126	2020-21	\$57,332,880	\$53,621,816	\$44,490,415		
127	2021-22	\$65,932,812	\$60,056,434	\$46,270,032		
128	2022-23	\$75,822,733	\$67,263,206	\$48,120,833		
129	2023-24	\$87,196,143	\$75,334,791	\$50,045,667		
130	2024-25	\$100,275,565	\$84,374,966	\$52,047,493		

Remote Sales – 2020 Session

EDR purchased the 2019 Edition of the Top 500 Internet Retailers report and database from a private vendor. The sales of the Top 500 retailers accounted for approximately 89.8% of the 2018 online retail sales in North America. The distribution of sales among the Top 500 is skewed to a few sellers with many sales, producing a long tail of many sellers with relatively few sales. Internet Retailer Research projects that the growth in online retail sales will average 15% per year.

As a first step, EDR culled businesses that had physical nexus in Florida or where the database indicated they collected sales tax in 45 states or over (five states do not have a sales tax). Next, businesses that sold exempt items (groceries, medicines, bullion, etc.), or performed services, or had filed for bankruptcy were removed. Finally, companies that collected Florida sales tax which were discovered through a search of the website's taxing policy or by placing an item in the website's cart and simulating a checkout with a shipping address in Florida were removed. This left 69 retailers. (Note - The retailers who provide a marketplace platform are separately analyzed.)

The Internet Retailer Database produces a 2018 Web Sales Range for these retailers. The top tiered have web sales ranging from \$2 to \$5 billion while the lowest tiered range from \$75 to \$125 million. The top tiered ranges (\$2B-\$5B and \$500M-\$1B) contained 10 businesses. Individual research on 2018 sales was performed because of the vast difference in the low and high end of the top tiered ranges.

The high and low attributable to Florida sales were calculated using a Florida share of 6.57% of total sales and reducing the estimate of North American sales by 7.5% for Canadian and Mexican shares. At the low end, the potential Florida sales tax due for each of the individual 69 retailers ranges from \$278,888 for the lowest to \$6,600,000 for the highest. Just looking at the high range, the potential sales tax ranges from \$464,813 to \$6,600,000 per entity.

Top 500 Retailers - Estimate of Potential Sales Tax Revenue				
	Low		High	
	Average			
CY 2018	\$	57,480,109	\$	99,460,548
Top 500 Sales % of All Sales		89.80%		89.80%
Potential Sales Tax	\$	64,009,030	\$	110,757,848
			\$	87,383,439

Note: The high impact of \$110.8 million is lower than last year's estimate of \$145.4 million, which is the most similar comparison. This is largely attributed to two reasons: (1) better data allowing for a more precise methodology; and (2) greater participation in sales tax collection efforts by remote sellers.