

## REVENUE ESTIMATING CONFERENCE

**Tax:** Sales and Use Tax

**Issue:** Private Investigative Services Exemption

**Bill Number(s):** Proposed Language

**Entire Bill**

**Partial Bill:**

**Sponsor(s):**

**Month/Year Impact Begins:** July 1, 2020 (1-month lag to collections)

**Date of Analysis:** 11/22/2019

### Section 1: Narrative

a. **Current Law:** Under s.212.05 (1) F.S., For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

- (i) At the rate of 6 percent on charges for all:
  - a. Detective, burglar protection, and other protection services (NAICS National Numbers 561611, 561612, 561613, and 561621).

s.212.05 (1) (i) F.S., 4. If a transaction involves both the sale or use of a service taxable under this paragraph and the sale or use of a service or any other item not taxable under this chapter, the consideration paid must be separately identified and stated with respect to the taxable and exempt portions of the transaction or the entire transaction shall be presumed taxable. The burden shall be on the seller of the service or the purchaser of the service, whichever applicable, to overcome this presumption by providing documentary evidence as to which portion of the transaction is exempt from tax. The department is authorized to adjust the amount of consideration identified as the taxable and exempt portions of the transaction; however, a determination that the taxable and exempt portions are inaccurately stated and that the adjustment is applicable must be supported by substantial competent evidence.

s. 493.6101 (17) F.S., "Private investigation" means the investigation by a person or persons for the purpose of obtaining information with reference to any of the following matters:

- (a) Crime or wrongs done or threatened against the United States or any state or territory of the United States, when operating under express written authority of the governmental official responsible for authorizing such investigation.
- (b) The identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation, or character of any society, person, or group of persons.
- (c) The credibility of witnesses or other persons.
- (d) The whereabouts of missing persons, owners of unclaimed property or escheated property, or heirs to estates.
- (e) The location or recovery of lost or stolen property.
- (f) The causes and origin of, or responsibility for, fires, libels, slanders, losses, accidents, damage, or injuries to real or personal property.
- (g) The business of securing evidence to be used before investigating committees or boards of award or arbitration or in the trial of civil or criminal cases and the preparation therefor.

From Florida Department of Agriculture website: A private investigator is any individual or agency who, for consideration, advertises as providing or performs the following activities. Individuals or agencies providing or advertising as providing these services for consideration must be licensed.

- Subcontracting with the government to determine crimes or wrongs done or threatened against the United States
- Determining the identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation or character of any society, person, or group of persons
- The credibility of witnesses or other persons
- The whereabouts of missing persons, owners of abandoned or escheated property, or heirs to estates
- The location or recovery of lost or stolen property
- The causes or origin of fires, libels, slanders, losses, accidents, damage, or injuries to real or personal property
- Securing evidence to be used before investigating committees or boards of award or arbitration or trial of civil or criminal cases

b. **Proposed Change:** Under s.212.05. (1) F.S., For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

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(i)1: At the rate of 6 percent on charges for all:

- a. Detective, burglar protection, and other protection services (NAICS National Numbers 561611, 561612, 561613, and 561621), excluding private investigative services

In addition, the following is added to s.212.05. (1) (i) 1 a F.S.: Private investigative services means private investigations, as defined in s. 493.6101(17), performed by a private investigative agency or private investigator licensed under chapter 493, Florida Statutes.

### Section 2: Description of Data and Sources

Calendar Year 2018, 2017 & 2016 Sales Tax Data specific NAICS codes:

561611 - Entities engaged in providing investigation and detective services.

561612 - Entities engaged in providing guard and patrol services, such as bodyguard, guard dog, and parking security services.

561613 - Entities engaged in picking up and delivering money, receipts, or other valuable items. These establishments maintain personnel and equipment to protect such properties while in transit.

561621 - Entities engaged in (1) selling security alarm systems, such as burglar and fire alarms, along with installation, repair, or monitoring services or (2) remote monitoring of electronic security alarm systems.

August 2019 General Revenue – Consumer Non-Durables Growth Rates

Florida Administrative Code 12a-1.0092 Detective, Burglar Protection, and Other Protection Services.

Florida Department of Agriculture

Kind Code – NAICS crosswalk

Florida Department of Agriculture - Active Licensed Private Investigators

9/28/2017 Impact Conference Results for Private Investigative Services

June 2019 IBIS World Industry Report: Private Detective Services in the US

### Section 3: Methodology (Include Assumptions and Attach Details)

This analysis uses a list from the Florida Department of Agriculture and Consumer Services (DACS) of the Active Licensed Private Investigators that has been matched into the Florida Department of Revenue's annual sales tax data files. This matched data is then used to create three cohorts within the sales tax data. The first group (Group A) consists of only those business in one of the four NAICS codes that have active licenses with DACS. The second group (Group B) consists of only those businesses that have active licenses with DACS, but do not use one of the listed NAICS codes for the primary NAICS code at a given location. The third group (Group C) consists only of businesses without license information from DACS using one of the four NAICS code as their primary NAICS code at a given location. It is assumed that the proposed language will reduce the currently taxable transactions. The three groups have been further broken down into their component NAICS codes and a menu of reduction factors have been applied to the taxable sales for each NAICS code. The IBIS World data has been incorporated into the reduction factor for NAICS code 561611 businesses.

There are 5 levels of taxable sales reductions used for the NAICS code expanded groups:

1. Taxable Sales for DACS Licensees in NAICS code 561611 are reduced by 76.9%.
  - a. Group A
  - b. NAICS code 561611
2. Taxable Sales for DACS Licensees in other Investigative NAICS Codes are reduced by 50%
  - a. Group A
  - b. NAICS code 561612, 561621, and 561613
3. Taxable Sales for DACS licensees with a NAICS code not listed in s.212.05 F.S. are reduced by 25%
  - a. Group B
  - b. not NAICS code 561611, 561612, 561613, or 561613.
4. Taxable sales for businesses in the PI NAICS code 561611, but without a matched DACS license are reduced by 76.9%
  - a. Group C
  - b. NAICS code 561611
5. Taxable sales for businesses with NAICS Code 561612, 561613, 561621 w/o a matched DACS license are reduced by 5%
  - a. Group C
  - b. NAICS code 561612, 561621, and 561613

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With all these reduction rates by NAICS code factored in the Group A effective reduction factor comes in at 58.9%, Group B has a 25% effective reduction factor, and Group C has a 10.2% effective reduction factor. Current taxes are compared to the taxes under the proposed change, and the difference is grown into the estimate period. The 1.5% growth rate used is consistent with previously adopted analysis for this issue (Impact Conference 9/28/2017). The low estimate uses only the amounts from Group A. The middle estimate uses the combined values of Group A and Group B. The High estimate uses the total for all groups.

There is a one-month lag to collections, and the first-year cash is equal to eleven months of the recurring.

### Section 4: Proposed Fiscal Impact

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2020-21	\$(27.5 M)	\$(30.0 M)	\$(15.0 M)	\$(16.3 M)	\$(14.7 M)	\$(16.1 M)
2021-22	\$(30.4 M)	\$(30.4 M)	\$(16.6 M)	\$(16.6 M)	\$(16.3 M)	\$(16.3 M)
2022-23	\$(30.9 M)	\$(30.9 M)	\$(16.8 M)	\$(16.8 M)	\$(16.6 M)	\$(16.6 M)
2023-24	\$(31.3 M)	\$(31.3 M)	\$(17.1 M)	\$(17.1 M)	\$(16.8 M)	\$(16.8 M)
2024-25	\$(31.8 M)	\$(31.8 M)	\$(17.4 M)	\$(17.4 M)	\$(17.1 M)	\$(17.1 M)

**List of affected Trust Funds:** Sales and Use Tax

**Section 5: Consensus Estimate (Adopted: 12/06/2019): The Conference adopted an adjusted low. The Conference made adjustments to the assumptions for exempt and taxable services.**

	GR		Trust		Revenue Sharing		Local Half Cent	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2018-19	(7.9)	(8.6)	(Insignificant)	(Insignificant)	(0.3)	(0.3)	(0.8)	(0.8)
2019-20	(8.7)	(8.7)	(Insignificant)	(Insignificant)	(0.3)	(0.3)	(0.8)	(0.8)
2020-21	(8.9)	(8.9)	(Insignificant)	(Insignificant)	(0.3)	(0.3)	(0.9)	(0.9)
2021-22	(9.0)	(9.0)	(Insignificant)	(Insignificant)	(0.3)	(0.3)	(0.9)	(0.9)
2022-23	(9.1)	(9.1)	(Insignificant)	(Insignificant)	(0.3)	(0.3)	(0.9)	(0.9)

	Local Option		Total Local		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2020-21	(1.3)	(1.4)	(2.3)	(2.5)	(10.2)	(11.1)
2021-22	(1.4)	(1.4)	(2.5)	(2.5)	(11.2)	(11.2)
2022-23	(1.5)	(1.5)	(2.6)	(2.6)	(11.5)	(11.5)
2023-24	(1.5)	(1.5)	(2.6)	(2.6)	(11.6)	(11.6)
2024-25	(1.5)	(1.5)	(2.7)	(2.7)	(11.8)	(11.8)

	A	B	C	D	E	F	G
1	<b>Group A: Licensed Private Investigators In specified NAICS codes matched into sales tax annual files</b>						
2	Row Labels	Gross Sales	Exempt Sales	Taxable Sales			
3	2016-17	\$ 646,244,461	\$ 299,190,241	\$ 401,978,843			
4	2017-18	\$ 716,491,586	\$ 337,513,721	\$ 435,006,049			
5	<b>Grand Total</b>	<b>\$ 2,085,076,900</b>	<b>\$ 949,441,964</b>	<b>\$ 1,247,706,072</b>			
6							
7	<b>Group B: Licensed Private Investigators with excluding the Specified NAICS codes Matched into Sales Tax annual files</b>						
8	Row Labels	Gross Sales	Exempt Sales	Taxable Sales			
9	2016-17	\$ 99,579,216	\$ 85,764,243	\$ 13,850,939			
10	2017-18	\$ 116,231,016	\$ 99,477,842	\$ 16,952,068			
11	<b>Grand Total</b>	<b>\$ 325,843,086</b>	<b>\$ 279,690,216</b>	<b>\$ 46,550,660</b>			
12							
13	<b>Group C: All other businesses in Specified NAICS codes Excluding Matched Licensed Private Investigators</b>						
14	Row Labels	Gross Sales	Exempt Sales	Taxable Sales			
15	2016-17	\$ 3,727,271,193	\$ 1,785,386,872	\$ 2,028,377,125			
16	2017-18	\$ 3,851,635,323	\$ 1,883,436,946	\$ 2,127,898,050			
17	<b>Grand Total</b>	<b>\$ 11,601,362,320</b>	<b>\$ 5,582,177,754</b>	<b>\$ 6,338,668,212</b>			
18							
19	<b>Percent of Currently Taxable Sales that will become Exempt under Proposed Language</b>						
20	All values in this table are calculated on the expanded NAICS Code Breakdown Spreadsheet*	Group A	35.5% 15.0% 8.0%				
21		Group B					
22		Group C					
23	*Revised to include IBIS World Data						
24							
25	2017-18	Current Taxable Sales	Taxable Sales Under Proposed Change	Difference	Sales Tax @ 6%		
26	Group A	\$ 435,006,049	\$ 280,423,700	\$ (154,582,348)	\$ (9,274,941)		
27	Group B	\$ 16,952,068	\$ 14,409,258	\$ (2,542,810)	\$ (152,569)		
28	Group C	\$ 2,127,898,050	\$ 1,957,212,550	\$ (170,685,500)	\$ (10,241,130)		
29							
30	<b>Growth rate</b>	As modified by conference as part of 2018 analysis of same issue ( 9/28/2017)	Consumer Non-Durables 8/2019 GR				
31	2018-19	1.50%	4.40%				
32	2019-20	1.50%	3.30%				
33	2020-21	1.50%	4.50%				
34	2021-22	1.50%	3.90%				
35	2022-23	1.50%	3.70%				
36	2023-24	1.50%	3.60%				
37	2024-25	1.50%	3.70%				

	A	B	C	D	E	F	G
38							
39	Low: Uses only Group A						
40	Middle: Combination of Group A and B						
41	High : All Groups						
42	All Estimates use the 1.5% growth rate						
43							
44		High	Middle	Low			
45	FY	Recurring	Recurring	Recurring			
46	2018-19	\$ (19,963,669)	\$ (9,568,922)	\$ (9,414,065)			
47	2019-20	\$ (20,263,124)	\$ (9,712,456)	\$ (9,555,276)			
48	2020-21	\$ (20,567,071)	\$ (9,858,143)	\$ (9,698,605)			
49	2021-22	\$ (20,875,577)	\$ (10,006,015)	\$ (9,844,084)			
50	2022-23	\$ (21,188,711)	\$ (10,156,105)	\$ (9,991,745)			
51	2023-24	\$ (21,506,541)	\$ (10,308,447)	\$ (10,141,622)			
52	2024-25	\$ (21,829,139)	\$ (10,463,073)	\$ (10,293,746)			
53							
54	Sales Tax Impacts						
55		High		Middle		Low	
56	FY	Cash	Recurring	Cash	Recurring	Cash	Recurring
57	2020-21	\$ (18.9 M)	\$ (20.6 M)	\$ (9.0 M)	\$ (9.9 M)	\$ (8.9 M)	\$ (9.7 M)
58	2021-22	\$ (20.9 M)	\$ (20.9 M)	\$ (10.0 M)	\$ (10.0 M)	\$ (9.8 M)	\$ (9.8 M)
59	2022-23	\$ (21.2 M)	\$ (21.2 M)	\$ (10.2 M)	\$ (10.2 M)	\$ (10.0 M)	\$ (10.0 M)
60	2023-24	\$ (21.5 M)	\$ (21.5 M)	\$ (10.3 M)	\$ (10.3 M)	\$ (10.1 M)	\$ (10.1 M)
61	2024-25	\$ (21.8 M)	\$ (21.8 M)	\$ (10.5 M)	\$ (10.5 M)	\$ (10.3 M)	\$ (10.3 M)

	A	B	C	D	F	G	H	I
1	<b>Group A: Licensed Private Investigators In specified NAICS codes matched into sales tax annual files</b>							
2					Original	Based on IBIS		
3	In 561611 NAICS code w/ Active License				75.0%	46.7%		
4	In other Investigative NAICS Codes w/ Active DACS License				50.0%	30.0%		
5	NAICS code not listed in Statute w/ Active DACS License				25.0%	15.0%		
6	In 561611 NAICS code w/o Active License				10.0%	46.7%		
7	In other Investigative NAICS Codes w/o Active DACS License				5.0%	5.0%		
8								
9	<b>Row Labels</b>	<b>Sum of gross</b>	<b>Sum of exempt</b>	<b>Sum of taxable</b>	<b>% newly Exempt Taxable Sales</b>	<b>% newly Exempt Taxable Sales IBIS</b>	<b>Newly Exempt Sales (\$)</b>	<b>Newly Exempt Sales (\$) IBIS</b>
10	<b>561611</b>							
11	2016-17	314,719,135	184,164,475	131,194,582	75%	46.7%	98,395,936	61,254,750
12	2017-18	355,841,057	212,939,444	144,281,208	75%	46.7%	108,210,906	67,364,896
13	<b>561612</b>							
14	2016-17	153,776,628	54,622,328	99,397,646	50%	30%	49,698,823	29,819,294
15	2017-18	184,105,582	60,883,923	123,471,320	50%	30%	61,735,660	37,041,396
16	<b>561621 + 561613</b>							
17	2016-17	177,748,698	60,403,438	171,386,615	50%	30%	85,693,308	51,415,985
18	2017-18	176,544,947	63,690,354	167,253,521	50%	30%	83,626,760	50,176,056
19	2017-18 Sub Totals			435,006,049			253,573,326	154,582,348
20	Total % Newly Exempt for Group A						58.3%	35.5%
21								

	A	B	C	D	F	G	H	I
22	<b>Group B: Licensed Private Investigators excluding the Specified NAICS codes Matched into Sales Tax annual files</b>							
23								
24	<b>Row Labels</b>	<b>Sum of gross</b>	<b>Sum of exempt</b>	<b>Sum of taxable</b>	<b>% newly Exempt Taxable Sales</b>	<b>% newly Exempt Taxable Sales IBIS</b>	<b>Newly Exempt Sales (\$)</b>	<b>Newly Exempt Sales (\$) IBIS</b>
25	<b>443142</b>							
26	2016-17	2,556,431	1,660,942	895,489	25%	15.0%	223,872	134,323
27	2017-18	2,265,690	1,481,483	784,207	25%	15.0%	196,052	117,631
28	<b>451110</b>							
29	2016-17	295,311	95,931	199,380	25%	15.0%	49,845	29,907
30	2017-18	559,572	156,537	403,035	25%	15.0%	100,759	60,455
31	<b>453998</b>							
32	2016-17	17,873	0	17,873	25%	15.0%	4,468	2,681
33	2017-18	18,661	0	18,661	25%	15.0%	4,665	2,799
34	<b>454390</b>							
35	2016-17	1,987,258	66,507	1,920,752	25%	15.0%	480,188	288,113
36	2017-18	2,177,611	59,844	2,117,767	25%	15.0%	529,442	317,665
37	<b>531120</b>							
38	2016-17	22,949,983	22,683,112	266,886	25%	15.0%	66,721	40,033
39	2017-18	24,357,263	23,017,492	1,342,788	25%	15.0%	335,697	201,418
40	<b>541990</b>							
41	2016-17	46,020	10,583	35,438	25%	15.0%	8,859	5,316
42	2017-18	196,886	85,221	111,664	25%	15.0%	27,916	16,750
43	<b>561720</b>							
44	2016-17	10,236,119	3,794,617	6,462,374	25%	15.0%	1,615,594	969,356
45	2017-18	10,568,581	3,942,068	6,659,280	25%	15.0%	1,664,820	998,892
46	<b>999999</b>							
47	2016-17	61,490,220	57,452,551	4,052,747	25%	15.0%	1,013,187	607,912
48	2017-18	76,086,753	70,735,197	5,514,666	25%	15.0%	1,378,666	827,200
49	2017-18 Sub Totals			16,952,068			4,238,017	2,542,810
50	Total % Newly Exempt for Group B						25.0%	15.0%

	A	B	C	D	F	G	H	I
51								
52	<b>Group C: All other businesses in Specified NAICS codes Excluding Matched Licensed Private Investigators</b>							
53								
54	<b>Row Labels</b>	<b>Sum of gross</b>	<b>Sum of exempt</b>	<b>Sum of taxable</b>	<b>% newly Exempt Taxable Sales</b>	<b>% newly Exempt Taxable Sales IBIS</b>	<b>Newly Exempt Sales (\$)</b>	<b>Newly Exempt Sales (\$) IBIS</b>
55	<b>561611</b>							
56	2016-17	322,228,908	169,068,625	154,191,594	10%	46.7%	15,419,159	71,992,055
57	2017-18	299,783,403	147,633,054	154,029,164	10%	46.7%	15,402,916	71,916,217
58	<b>561612</b>							
59	2016-17	840,238,219	348,969,875	494,238,734	5%	5.0%	24,711,937	24,711,937
60	2017-18	912,219,058	396,483,072	521,873,449	5%	5.0%	26,093,672	26,093,672
61	<b>561613</b>							
62	2016-17	145,738,077	68,691,956	77,719,184	5%	5.0%	3,885,959	3,885,959
63	2017-18	156,499,681	75,375,277	82,474,017	5%	5.0%	4,123,701	4,123,701
64	<b>561621</b>							
65	2016-17	2,419,065,989	1,198,656,416	1,302,227,613	5%	5.0%	65,111,381	65,111,381
66	2017-18	2,483,133,181	1,263,945,543	1,369,521,419	5%	5.0%	68,476,071	68,476,071
67	2017-18 Sub Totals			2,127,898,050			114,112,604	170,685,500
68	Total % Newly Exempt for Group C							
							5.4%	8.0%

	A	B	C	D	E	F	H	I
1	<b>IBIS World 2019 US Private Detective* Services Summary Data</b>							
2	*The report appears to narrowly address Private Detective Services as only activities that would occur under NAICS code 561611							
3								
4	<b>Products and Services (\$)</b>							
5	US			\$ 6,600,000,000				
6	Florida portion by Pop. Share @ 6.42%			\$ 423,949,833				
7	Sales tax @ 6%			\$ 25,436,990				
8								
9	<b>Products and Services (Composition)</b>		IBIS Shares	% exempt	% taxable			
10	Pre-employment services (incl. Background checks)	Taxable		45.7%	80%	9.1%		
11	Legal Investigation Services	Partially exempt		25.4%	25%	19.1%		
12	Insurance Investigation Services	Exempt		10.4%	100%	0.0%		
13	Corporate Investigation Services	Taxable		7.3%	0%	7.3%		
14	Domestic and Family Investigation Services	Taxable		6.1%	0%	6.1%		
15	Other Investigation Services	Taxable		5.1%	0%	5.1%		
16	Total			100.0%		46.7%		
17								
18	<b>561611 Exemption Calculated based on IBIS World Values and Percentages</b>							
19	Sales tax @ 6%		\$ 25,436,990					
20	% Exempt Under Proposed Language			46.7%				
21	Exemption Value (\$M)		\$ (11.88)					

A	B	C	D	E	F	G	H
2	<b>Data obtained by FL association of licensed investigators</b>						
3	# of licensees	sum of gross	sum of taxable	sales tax @ %6			
4	88	\$ 17,270,226	\$ 1,683,299	\$ 100,998			
5	per capita	\$ 196,253	\$ 19,128	\$ 1,147.70			
6	7,297	\$ 1,432,055,007	\$ 139,579,894	\$ 8,374,794			
7							
8	# of Licensees*	7,297					
9	Yearly Hours	2,000	1,500	1,250			
10	In State Hour %	60%	50%	40%			
11	Total Hours of All licensees	8,756,400	5,472,750	3,648,500			
12	*7218 Class "C" & 79 Class "MA"						
13							
14	\$ Per Hour						
15	High	\$ 90.00					
16	Middle	\$ 45.00					
17	Low	\$ 35.00					
18							
19	<b>Sales Tax Impact Table :: Taxable Hours Analysis</b>						
20	FY	High		Middle		Low	
21		Cash	Recurring	Cash	Recurring	Cash	Recurring
22	2020-21	\$ (18.9 M)	\$ (20.6 M)	\$ (9.0 M)	\$ (9.9 M)	\$ (8.9 M)	\$ (9.7 M)
23	2021-22	\$ (20.9 M)	\$ (20.9 M)	\$ (10.0 M)	\$ (10.0 M)	\$ (9.8 M)	\$ (9.8 M)
24	2022-23	\$ (21.2 M)	\$ (21.2 M)	\$ (10.2 M)	\$ (10.2 M)	\$ (10.0 M)	\$ (10.0 M)
25	2023-24	\$ (21.5 M)	\$ (21.5 M)	\$ (10.3 M)	\$ (10.3 M)	\$ (10.1 M)	\$ (10.1 M)
26	2024-25	\$ (21.8 M)	\$ (21.8 M)	\$ (10.5 M)	\$ (10.5 M)	\$ (10.3 M)	\$ (10.3 M)
27							
28	<b>Newly Exempt Hours per License*</b>						
29	FY	High	Middle	Low			
30		Recurring	Recurring	Recurring			
31	2020-21	31.32	30.02	37.97			
32	2021-22	31.79	30.47	38.54			
33	2022-23	32.26	30.93	39.12			
34	2023-24	32.75	31.39	39.71			
35	2024-25	33.24	31.86	40.31			
36	*(impact / Price Per Hour / # of Licenses)						