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## Proposed Change in Battery Tax Law is Proper

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The following is an update of a report previously released during the 1996 Legislative Session. The legislation that report examined did not pass and is being considered again by the 1998 Legislature.

Florida levies a tax on pollutants sold in the state to help pay for cleaning up sites that these pollutants contaminate. One of these pollutants is lead-acid batteries. A change in law in 1991, expanding the application of the tax from only new and remanufactured batteries, resulted in the tax to be due on every battery sold in the state. The effect of this is a high probability of multiple taxation of the same product. The major example of this is the sale of used cars. When a car is sold, the dealer is responsible for collecting and remitting the tax on the battery in that car.

For the third year in a row, legislation (House Bill 165 and Senate Bill 1282) has been introduced this session directing that the tax be levied only on the retail sale of new and remanufactured batteries and may only be assessed once on each battery.

The \$1.50 fee for each lead-acid battery sold at retail in Florida is deposited in the Water Quality Assurance Trust Fund (WQATF). These funds are disbursed by the Department of Environmental Protection according to a priority list of activities. These activities are designed to restore or replace potable water supplies in the state, including investigation, assessment, cleanup, restoration, maintenance and monitoring of a contaminated site.

The lead-acid battery tax was enacted in 1988, when the Legislature expanded the list of products subject to the Water Quality Assurance tax. Batteries are now one of several products subject to the tax. The battery fee started at \$1.00 and was increased to \$1.50 in 1989. There is a two-tiered rate structure for the other pollutants contributing to the WQATF. If the unobligated balance of the WQATF falls below \$3 million, the second-tier rates apply. Further, if the unobligated balance exceeds \$12 million, the tax is supposed to be discontinued until it is necessary to replenish the fund.

### ***Multiple taxation is unjustified***

There appears to be no legitimate justification for levying the fee more than once on the same battery. The number of times the same battery is sold has no bearing on its

environmental impact. In fact, the longer a battery is kept in use, the longer the disposal of that battery is avoided. This rationale is used in the application of the waste tire fee which is deposited in the Solid Waste Management Trust Fund. The \$1 per tire fee is only imposed on new tires sold separately or as part of a new motor vehicle. It is not charged on recapped tires or used tires included on a used motor vehicle.

Battery disposal also raises another issue - recycling. Department of Environmental Protection staff members indicate that problems with battery disposal are increasingly a thing of the past. Successful markets have been developed for recycling of lead and other battery components. **The United States Environmental Protection Agency estimates that over 90% of all lead-acid batteries are recycled. Despite this, the WQATF relies quite heavily on the battery fee for its funding. The battery fee provides more than 30% of total fund revenues.**

#### **Battery Tax Collections**

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FY 1991	\$6.2 million	FY 1996	\$8.4 million
FY 1992	6.6 million	FY 1997	\$8.3 million
FY 1993	7.4 million	FY 1998*	\$8.5 million
FY 1994	7.9 million	FY 1999*	\$8.8 million
FY 1995	8.3 million	.	.

\* estimated

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#### ***Current Revenue Impact Estimate is Overstated***

The Department of Revenue does not keep the data detail necessary to distinguish fees collected on new or remanufactured batteries from fees collected on used batteries, so estimating the impact of the proposed legislation difficult. However, the current estimate of \$3.8 million (\$3.3 million in trust funds and \$500,000 in general revenue) is surely overstated.

When the 1991 Legislature removed language that the fee be applied to "new or remanufactured" batteries it was estimated that the expanded base would increase battery fee revenues by \$600,000. This is the same language that the proposed legislation would put back in law. Accordingly, the 1996 legislation carried a fiscal impact estimate of \$700,000. Florida TaxWatch's 1996 report suggested that estimate might be high, based on growth in battery tax collections after the 1991 law change.

The total dollar change in battery fee collections from FY 1991 to FY 1992 was only \$465,008, which also includes normal growth. In the following years, during which there was no change in tax base or rate, there was also significant growth in collections. While

there could be some lag in compliance that delayed some of the fiscal impact into these later years, it would seem that the revenue impact would be relatively minor.

Last year, the Revenue Impact Conference increased the estimated fiscal impact to \$3.8 million. Total battery tax collections in FY 1997 were \$8.3 million. The new estimated implies the at taxing only new or remanufactured batteries would reduce revenue to approximately \$4.5 million. This is far below the FY 1991 revenue level when the law only applied to new or remanufactured batteries.

The fiscal impact was arrived at by trying to estimate the current battery tax revenue that came from batteries sold in new cars and boats and batteries bought as replacements. It was assumed that everything else would be exempt. To estimate to number of replacement batteries bought in one year, it was assumed that batteries are replaced every four years. So, the number of vehicles in Florida was divided by four. However, a number of 7.7 million vehicles was used. According to data from the Department of Highway Safety and Motor Vehicles, this number approximates only the number of passenger cars in the state and excludes millions of other vehicles such as trucks, buses, ambulances, lease vehicles, cars for hire and recreational vehicles.

The estimate does not account for batteries bought in Florida by tourists, seasonal residents or any other battery bought in Florida for a car not registered here. It also do not include batteries for aircraft or off-road vehicles such as golfcarts (which can have up to six batteries.)

The revenue impact estimate is critical because the Legislature has expressed support for the bills' concept, but is wary of reducing available revenues for water quality assurance.

This is a question of taxpayer fairness. Both the battery tax rate and the base have been increased since 1989, but the problem the tax was established to address (water contamination from batteries) has decreased. The proposed legislation will help avoid unjustified multiple taxation and reduce the administrative costs of businesses without adversely affecting our state's vital water quality. Thus, Florida TaxWatch finds that this battery tax law proposal is both fiscally and environmentally sound.

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