

Committee Substitute for House Bill No. 1105

An act relating to tax on sales, use, and other transactions; amending s. 212.02, F.S.; defining “agricultural production”; amending s. 212.08, F.S.; revising application of the partial exemption for self-propelled, power-drawn, or power-driven farm equipment used exclusively on a farm or in a forest in specified activities and including rental or lease of such equipment in such exemption; reducing the rate of tax on such equipment; requiring that the purchaser, renter, or lessee sign a certificate regarding the use of such equipment; specifying effect of possession of such certificate by a seller or other dealer; amending s. 212.12, F.S., relating to promulgation of tax brackets by the Department of Revenue, to conform; amending s. 212.06, F.S.; revising the application of provisions which exempt from use tax a person who secures rock, fill dirt, or similar materials from a location he or she owns for use on his or her own property, to include corporations and affiliated groups; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (34) is added to section 212.02, Florida Statutes, to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(34) “Agricultural production” means the production of plants and animals useful to humans, including the preparation, planting, cultivating, or harvesting of these products or any other practices necessary to accomplish production through the harvest phase, and includes aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products and farm production.

Section 2. Subsection (3) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(3) EXEMPTIONS, PARTIAL; CERTAIN FARM EQUIPMENT.—There shall be taxable at the rate of 2.5 ~~3~~ percent the sale, rental, lease, use, consumption, or storage for use in this state of self-propelled, power-drawn, or power-driven farm equipment used exclusively on a farm or in a forest in the agricultural production of plowing, planting, cultivating, or harvesting crops or products as produced by those agricultural industries included in

s. 570.02(1), or for fire prevention and suppression work with respect to such crops or products. Harvesting may not be construed to include processing activities. This exemption is not forfeited by moving farm equipment between farms or forests. However, this exemption shall not be allowed unless the purchaser, renter, or lessee signs a certificate stating that the farm equipment is to be used exclusively on a farm or in a forest for agricultural production or for fire prevention and suppression, as required by this subsection. Possession by a seller, lessor, or other dealer of a written certification by the purchaser, renter, or lessee certifying the purchaser's, renter's, or lessee's entitlement to an exemption permitted by this subsection relieves the seller from the responsibility of collecting the tax on the nontaxable amounts, and the department shall look solely to the purchaser for recovery of such tax if it determines that the purchaser was not entitled to the exemption. The rental of self-propelled, power-drawn, or power-driven farm equipment shall be taxed at the rate of 3 percent.

Section 3. Subsection (11) of section 212.12, Florida Statutes, is amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(11) The department is authorized to provide by rule the tax amounts and brackets applicable to all taxable transactions that occur in counties that have a surtax at a rate other than 1 percent which transactions would otherwise have been transactions taxable at the rate of 6 percent. Likewise, the department is authorized to promulgate by rule the tax amounts and brackets applicable to transactions taxable at 2.5 or 3 percent pursuant to s. 212.08(3), transactions taxable at 7 percent pursuant to s. 212.05(1)(e), and on transactions which would otherwise have been so taxable in counties which have adopted a discretionary sales surtax.

Section 4. Effective July 1, 2000, paragraph (a) of subsection (15) of section 212.06, Florida Statutes, is amended to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(15)(a) When a contractor secures rock, shell, fill dirt, or similar materials from a location that he or she owns or leases and uses such materials to fulfill a real property contract on the property of another person, the contractor is the ultimate consumer of such materials and is liable for use tax thereon. This paragraph does not apply to a person or a corporation or affiliated group as defined by s. 220.03(1)(b) or (e) that who secures such materials from a location that he, or she, or it owns for use on his, or her, or its own property. The basis upon which the contractor shall remit the tax is the fair retail market value determined by establishing either the price he or she would have to pay for it on the open market or the price he or she would regularly charge if he or she sold it to other contractors or users.

Section 5. Except as otherwise provided herein, this act shall take effect January 1, 2001.

Approved by the Governor June 14, 2000.

Filed in Office Secretary of State June 14, 2000.