

CHAPTER 2013-82

Committee Substitute for House Bill No. 423

An act relating to the tax on sales, use, and other transactions; amending s. 212.05, F.S.; providing an exception to sales tax for dyed diesel fuel used in vessels for commercial fishing and aquacultural purposes; amending s. 212.0501, F.S.; providing an exception from sales tax collected by a licensed sales tax dealer for dyed diesel fuel used in vessels for commercial fishing and aquacultural purposes; amending s. 212.08, F.S.; providing a sales tax exemption for dyed diesel fuel used in vessels for commercial fishing and aquacultural purposes; providing an effective date.

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

Section 1. Paragraph (k) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(k) At the rate of 6 percent of the sales price of each gallon of diesel fuel not taxed under chapter 206 purchased for use in a vessel, except dyed diesel fuel that is exempt pursuant to s. 212.08(4)(a)4.

Section 2. Subsection (4) of section 212.0501, Florida Statutes, is amended to read:

212.0501 Tax on diesel fuel for business purposes; purchase, storage, and use.—

(4) Except as otherwise provided in s. 212.05(1)(k), a licensed sales tax dealer may elect to collect such tax pursuant to this chapter on all sales to each person who purchases diesel fuel, except dyed diesel fuel used for commercial fishing and aquacultural purposes listed in s. 206.41(4)(c)3., for consumption, use, or storage by a trade or business. When the licensed sales tax dealer has not elected to collect such tax on all such sales, the purchaser or ultimate consumer shall be liable for the payment of tax directly to the state.

Section 3. Paragraph (a) of subsection (4) 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.

(4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES, ETC.

(a) Also exempt are:

1. Water delivered to the purchaser through pipes or conduits or delivered for irrigation purposes. The sale of drinking water in bottles, cans, or other containers, including water that contains minerals or carbonation in its natural state or water to which minerals have been added at a water treatment facility regulated by the Department of Environmental Protection or the Department of Health, is exempt. This exemption does not apply to the sale of drinking water in bottles, cans, or other containers if carbonation or flavorings, except those added at a water treatment facility, have been added. Water that has been enhanced by the addition of minerals and that does not contain any added carbonation or flavorings is also exempt.

2. All fuels used by a public or private utility, including any municipal corporation or rural electric cooperative association, in the generation of electric power or energy for sale. Fuel other than motor fuel and diesel fuel is taxable as provided in this chapter with the exception of fuel expressly exempt herein. Motor fuels and diesel fuels are taxable as provided in chapter 206, with the exception of those motor fuels and diesel fuels used by railroad locomotives or vessels to transport persons or property in interstate or foreign commerce, which are taxable under this chapter only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier's railroad locomotives or vessels that were used in interstate or foreign commerce and that had at least some Florida mileage during the previous fiscal year of the carrier, such ratio to be determined at the close of the fiscal year of the carrier. However, during the fiscal year in which the carrier begins its initial operations in this state, the carrier's mileage apportionment factor may be determined on the basis of an estimated ratio of anticipated miles in this state to anticipated total miles for that year, and subsequently, additional tax shall be paid on the motor fuel and diesel fuels, or a refund may be applied for, on the basis of the actual ratio of the carrier's railroad locomotives' or vessels' miles in this state to its total miles for that year. This ratio shall be applied each month to the total Florida purchases made in this state of motor and diesel fuels to establish that portion of the total used and consumed in intrastate movement and subject to tax under this chapter. The basis for imposition of any discretionary surtax shall be set forth in s. 212.054. Fuels used exclusively in intrastate commerce do not qualify for the proration of tax.

3. The transmission or wheeling of electricity.

4. Dyed diesel fuel placed into the storage tank of a vessel used exclusively for the commercial fishing and aquacultural purposes listed in s. 206.41(4)(c)3.

Section 4. This act shall take effect July 1, 2013.

Approved by the Governor May 30, 2013.

Filed in Office Secretary of State May 30, 2013.