

By Senator Ostalkiewicz

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A bill to be entitled
An act relating to the tax on sales, use, and
other transactions; amending s. 212.08, F.S.;
defining the term "advertising agency";
exempting from the tax certain purchases by
advertising agencies; providing for retroactive
applicability in certain circumstances;
providing an effective date.

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

Section 1. Paragraph (qq) is added to subsection (7)
of section 212.08, Florida Statutes, 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.

(7) MISCELLANEOUS EXEMPTIONS.--

(qq) Advertising agencies.--

1. As used in this paragraph, the term "advertising
agency" means any firm that is regularly engaged in the
business of providing advertising materials and services to
its clients.

2. Exempt from the tax imposed by this part are items
of tangible personal property such as photographic negatives
and positives, videos, films, galleys, mechanicals, veloxes,
illustrations, and artwork and the services used to produce
those items if the items are:

1 a. Sold to an advertising agency that is acting as an
2 agent for its clients pursuant to contract, and are created
3 for the performance of advertising services for the clients;

4 b. Produced, fabricated, manufactured, or otherwise
5 created by an advertising agency for its clients, and are used
6 in the performance of advertising services for the clients; or

7 c. Sold by an advertising agency to its clients in the
8 performance of advertising services for the clients, whether
9 or not the charges for these items are marked up or separately
10 stated.

11 3. The items exempted from tax under subparagraph 2.
12 and the creative services used by an advertising agency to
13 design the advertising for promotional goods such as displays,
14 display containers, exhibits, newspaper inserts, brochures,
15 catalogues, direct mail letters or flats, shirts, hats, pens,
16 pencils, key chains, or other printed goods or materials are
17 not subject to tax. However, when such promotional goods are
18 produced or reproduced for distribution, tax applies to the
19 cost price.

20 4. The exemptions provided by this paragraph apply
21 retroactively, except that taxes that have been remitted
22 before July 1, 1998, on transactions that are subject to
23 exemption under this paragraph are not subject to refund.

24 Section 2. This act shall take effect July 1, 1998.

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27 LEGISLATIVE SUMMARY

28 Provides an exemption from the tax on sales, use, and
29 other transactions for certain purchases made by
30 "advertising agencies," as that term is defined in this
31 act. Provides for the retroactive applicability of the
 exemption in certain circumstances, but prohibits
 refunding taxes that were remitted before the effective
 date of this act.