

By Senator Silver

38-941-99

See HB

1                                   A bill to be entitled  
2           An act relating to tax on sales, use, and other  
3           transactions; amending s. 212.08, F.S.;  
4           providing an exemption for personal or real  
5           property purchased or leased for use in the  
6           operation of a television broadcasting station  
7           that meets specified criteria; requiring return  
8           of tax refunds plus interest and penalties if  
9           certain criteria are not met; providing  
10          limitations; providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

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14           Section 1. Paragraph (f) of subsection (5) of section  
15 212.08, Florida Statutes, 1998 Supplement, is amended to read:  
16           212.08 Sales, rental, use, consumption, distribution,  
17 and storage tax; specified exemptions.--The sale at retail,  
18 the rental, the use, the consumption, the distribution, and  
19 the storage to be used or consumed in this state of the  
20 following are hereby specifically exempt from the tax imposed  
21 by this chapter.

22           (5) EXEMPTIONS; ACCOUNT OF USE.--

23           (f) Motion picture or video equipment used in motion  
24 picture or television production activities and sound  
25 recording equipment used in the production of master tapes and  
26 master records; property purchased or leased to operate  
27 certain television broadcasting stations.--

28           1. Motion picture or video equipment and sound  
29 recording equipment purchased or leased for use in this state  
30 in production activities is exempt from the tax imposed by  
31 this chapter upon an affirmative showing by the purchaser or

1 lessee to the satisfaction of the department that the  
2 equipment will be used for production activities.

3 2. There is exempt from the tax imposed by this  
4 chapter all personal or real property purchased or leased for  
5 use in the operation of any television broadcasting station  
6 that meets all of the following requirements:

7 a. It has been acquired following the conclusion of  
8 bankruptcy proceedings by a previously unrelated owner. The  
9 station general manager of the acquiring station must submit  
10 an affidavit stating that the acquiring station had no  
11 ownership interest, or other business relationship, with the  
12 previous owner that went through bankruptcy proceedings.

13 b. It submits an affidavit from its general manager  
14 stating that the television broadcasting station or stations  
15 under common ownership have established and maintained more  
16 than 75 full-time jobs since acquisition.

17 c. The acquiring owner has invested more than \$5  
18 million in capital improvements since the acquisition of the  
19 television broadcasting station or stations.

20 d. It is located within the boundaries of a  
21 metropolitan statistical area and shares common ownership or  
22 management with another television broadcasting station that  
23 has been acquired following bankruptcy and that is located in  
24 a different metropolitan statistical area.

25 e. In the year following receipt of a tax refund  
26 pursuant to this section, it broadcasts at no cost to the  
27 state youth-oriented anti-tobacco public service announcements  
28 and programming of a value equal to or greater than the tax  
29 refund received by the television broadcasting station in the  
30 previous year. If a television broadcasting station that has  
31 received a refund fails to broadcast sufficient public service

1 announcements and programming, the taxpayer must return the  
2 refund to the state, together with interest and penalties.

3 3. The ~~exemptions~~ exemption provided by this paragraph  
4 shall inure to the taxpayer only through a refund of  
5 previously paid taxes. With respect to the refund authorized  
6 under subparagraph 2., the maximum refund allowed in any year  
7 shall not exceed \$350,000 for any television broadcasting  
8 station or group of television broadcasting stations that  
9 share common ownership or management, and no taxpayer may  
10 receive a refund for more than 5 years. Notwithstanding the  
11 provisions of s. 212.095, such refund shall be made within 30  
12 days of formal application, which application may be made  
13 after the completion of production activities or on a  
14 quarterly basis with respect to the refund authorized under  
15 subparagraph 1., and on a quarterly basis with respect to the  
16 refund authorized under subparagraph 2. Notwithstanding the  
17 provisions of chapter 213, the department shall provide the  
18 Department of Commerce with a copy of each refund application  
19 and the amount of such refund, if any.

20 4.2. For the purpose of the exemption provided in  
21 subparagraph 1.:

22 a. "Motion picture or video equipment" and "sound  
23 recording equipment" includes only equipment meeting the  
24 definition of "section 38 property" as defined in s.  
25 48(a)(1)(A) and (B)(i) of the Internal Revenue Code that is  
26 used by the lessee or purchaser exclusively as an integral  
27 part of production activities; however, motion picture or  
28 video equipment and sound recording equipment does not include  
29 supplies, tape, records, film, or video tape used in  
30 productions or other similar items; vehicles or vessels; or  
31 general office equipment not specifically suited to production

1 activities. In addition, the term does not include equipment  
2 purchased or leased by television or radio broadcasting or  
3 cable companies licensed by the Federal Communications  
4 Commission.

5 b. "Production activities" means activities directed  
6 toward the preparation of a:

7 (I) Master tape or master record embodying sound; or

8 (II) Motion picture or television production which is  
9 produced for theatrical, commercial, advertising, or  
10 educational purposes and utilizes live or animated actions or  
11 a combination of live and animated actions. The motion picture  
12 or television production shall be commercially produced for  
13 sale or for showing on screens or broadcasting on television  
14 and may be on film or video tape.

15 Section 2. This act shall take effect July 1, 1999.

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18 LEGISLATIVE SUMMARY

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20 Provides a sales tax exemption for personal or real  
21 property purchased or leased for use in the operation of  
22 a television broadcasting station that meets specified  
23 criteria. Requires return of tax refunds plus interest  
24 and penalties if certain criteria are not met. Limits  
25 the amount and duration of such refunds.

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