

STORAGE NAME: h1683s1.ag

DATE: March 24, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
AGRICULTURE
ANALYSIS**

BILL #: CS/HB 1683

RELATING TO: Tax on sales, use, and other transactions

SPONSOR(S): Committee on Agriculture and Representative Stansel

COMPANION BILL(S): SB 2144 (s) by Senator Bronson

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) AGRICULTURE YEAS 9 NAYS 0
- (2) FINANCE AND TAXATION
- (3) GENERAL GOVERNMENT APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

CS/HB 1683 revises application of the partial sales and use tax exemption on self-propelled, power-drawn, or power-driven farm equipment by replacing a list of specified activities in which the equipment must be used with the requirement for use in "agricultural production." A definition for the term "agricultural production" is provided.

The bill also reduces the rate of tax on the qualifying farm equipment by one percent each year beginning January 1, 2000, and ending January 1, 2002, when the rate reaches zero, and purchase of the described farm equipment is fully exempt from sales and use tax. The exemption will not be allowed, however, unless the purchaser, renter, or lessee signs a certificate stating that the farm equipment is to be used as required by s. 212.08(3), F.S., (1998 Supplement).

Prior to October 1, 1998, Florida law provided a partial sales and use tax exemption rate of three percent on farm equipment either self-propelled or power-drawn or used exclusively by a farmer on a farm owned, leased or sharecropped by the farmer in plowing, cultivating, or harvesting crops. The 1998 Legislature extended the partial exemption to farm equipment that is power-driven and used by agricultural entities for plowing, planting, cultivating, or harvesting of products. The partial exemption was also extended to farm equipment used exclusively "on a farm or in a forest" which allowed the exemption to apply to contract and specialty harvest equipment purchased by persons who may not own, lease, or sharecrop a farm.

CS/HB 1683 has not yet been examined by the Revenue Estimating Conference; therefore, the fiscal impact has not been determined.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Prior to October 1, 1998, Florida law provided a partial sales and use tax exemption rate of three percent on farm equipment either self-propelled or power-drawn or used exclusively by a farmer on a farm owned, leased or sharecropped by the farmer in plowing, cultivating, or harvesting crops. In s. 212.08(3), F.S., (1998 Supplement), the 1998 Legislature extended the partial exemption to self-propelled, power-drawn, or power-driven farm equipment used on a farm or in a forest for plowing, planting, cultivating, or harvesting crops or products in agricultural industries or for related fire prevention and suppression. The partial exemption does not include equipment used in post-harvest processing or marketing activities.

According to testimony from those representing agricultural interests, even with a partial exemption, it is difficult for farmers, loggers, custom combiners, equipment suppliers and others to compete with their counterparts in neighboring states. Florida's tax rate is higher than the rate in Georgia (0%), South Carolina (0%), Tennessee (0%), North Carolina (1% with an \$80.00 cap), and Alabama (1.5%).

The term "agricultural production", included in the proposed changes, is currently not defined for purposes of sales and use taxes.

Section 212.12(11), F.S., (1998 Supplement), provides that the Department of Revenue may provide by rule for application of the bracket system to transactions subject to state sales or use tax at three percent pursuant to s. 212.08(3), F.S., (1998 Supplement).

B. EFFECT OF PROPOSED CHANGES:

CS/HB 1683 amends s. 212.08(3), F.S., (1998 Supplement), to extend the partial sales and use tax exemption rate of three percent to equipment used in any stage of agricultural production, as defined in the bill. An equipment purchaser, renter, or lessee will be required to sign a certificate stating that the farm equipment will be used exclusively on a farm or in a forest for agricultural production.

The bill also phases out the sales and use tax on qualified farm equipment. On January 1, 2000, the rate would drop from three percent to two percent. On January 1, 2001, the rate would drop from two percent to one percent. Beginning January 1, 2002, qualifying farm equipment would be completely exempt from sales and use tax.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

As with any tax law change, the Department of Revenue would be required to identify affected taxpayers, create new forms, change internal processes, draft and promulgate rule amendments, prepare a Taxpayer Information Publication to be sent to affected parties, and notify the public on how to comply with the new law.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

Yes. The existing three percent sales and use tax on qualified farm equipment would be phased out beginning January 1, 2000, and reaching zero on January 1, 2002.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility: **Not applicable.**

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

4. Individual Freedom: **Not applicable.**

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

5. Family Empowerment: **Not applicable.**

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

(4) Are families required to participate in a program?

(5) Are families penalized for not participating in a program?

b. Does the bill directly affect the legal rights and obligations between family members?

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

D. STATUTE(S) AFFECTED:

Sections 212.02, 212.08, and 212.12, Florida Statutes

E. SECTION-BY-SECTION ANALYSIS:

Section 1: amends s. 212.02, F.S., (1998 Supplement), to define "agricultural production" as production of plants and animals useful to humans, including preparation, planting, cultivating, or harvesting of products or any other practices necessary to accomplish production through the harvest phase. Aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products and production are included.

Section 2: amends s. 212.08(3), F.S., (1998 Supplement), to extend the sales and use tax exemption to equipment used in any stage of agricultural production, as defined in Section 1. of the bill. Purchasers, renters, or lessees will be required to sign a certificate stating the equipment will be used on a farm or in a forest exclusively for agricultural production. The section also provides a phaseout of the partial exemption beginning on January 1, 2000, when the tax rate would drop to two percent. On January 1, 2001, the rate would drop to one percent, and beginning January 1, 2002, qualifying equipment would be completely exempt from sales and use tax.

Section 3: amends s. 212.12, F.S., (1998 Supplement), conforming the reference to a three percent rate to reflect the phaseout from partial to total exemption.

Section 4: provides that the act shall take effect on January 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT: **See Fiscal Comments Section.**

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:
2. Recurring Effects:
3. Long Run Effects Other Than Normal Growth:
4. Total Revenues and Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:
2. Recurring Effects:
3. Long Run Effects Other Than Normal Growth:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Farmers and others involved in agricultural production will benefit by paying less sales and use tax each year until a total exemption is reached.

3. Effects on Competition, Private Enterprise and Employment Markets:

Some segments of the Florida agriculture industry may become more competitive with surrounding states that have minimal or no sales and use tax on equipment used in agricultural production.

D. FISCAL COMMENTS:

CS/HB 1683 has not yet been examined by the Revenue Estimating Conference; therefore, its fiscal impact has not been determined.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

CS/HB 1683 does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

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B. REDUCTION OF REVENUE RAISING AUTHORITY:

Although the bill will reduce the authority of municipalities and counties to raise revenues, the impact is expected to be insignificant and the bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

While the bill will reduce the amount of the Local Government Half Cent Sales Tax shared with municipalities and counties, it does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(b), Florida Constitution does not apply.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Five amendments to the original bill are incorporated in CS/HB 1683. The amendments provide a clearer definition for "agricultural production"; change the various effective dates for the phaseout of the tax to allow the Department of Revenue (department) more time for notification and implementation; clarify that if a purchaser receives an exemption he/she is not entitled to, the department shall recover the unpaid tax solely from the purchaser; and change the effective date of the bill to January 1, 2000.

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

Prepared by:

Staff Director:

Susan D. Reese

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