

Amendment No. 001 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

The Committee on Finance & Taxation offered the following:

Amendment (with title amendment)

On page 1, line 21

remove from the bill: everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraph (a) of subsection (14) of section 212.02, Florida Statutes, 1998 Supplement, and subsection (20) of section 212.02, Florida Statutes, 1998 Supplement, are amended 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:

(14)(a) "Retail sale" or a "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale in the form of tangible personal property or services taxable under this chapter, and includes all such transactions that may be made in lieu of retail sales or sales at retail. A sale for resale includes a sale of qualifying

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1 property. As used in this paragraph, "qualifying property"
2 means tangible personal property, other than electricity, used
3 or consumed by a government contractor in the performance of a
4 qualifying contract, as defined by s. 212.08(17)(c), to the
5 extend that the cost of the property is allocated or charged
6 as a direct item of cost to such contract, and title to which
7 property vests in or passes to the government under the
8 contract. The term "government contractor" shall include
9 prime contractors and subcontractors. As used in this
10 paragraph, a cost is a "direct item of cost" if it is a
11 "direct cost" as defined in 48 CFR 9904.418-30(a)(2), or
12 similar successor provisions, including costs identified
13 specifically with a particular contract.

14 (20) "Use" means and includes the exercise of any
15 right or power over tangible personal property incident to the
16 ownership thereof, or interest therein, except that it does
17 not include the sale at retail of that property in the regular
18 course of business. The term "use" does not include the loan
19 of an automobile by a motor vehicle dealer to a high school
20 for use in its driver education and safety program. The term
21 "use" does not include a contractor's use of "qualifying
22 property" as defined by s. 212.02(14)(a).

23 (2) It is the intent of the Legislature that the
24 amendments to s. 212.02(14)(a) and 212.02(20), Florida
25 Statutes, 1998 Supplement, made by this section clarify and
26 confirm existing law with respect to the tax imposed by
27 chapter 212, Florida Statutes.

28 Section 2. (1) Subsection (17) is added to section
29 212.08, Florida Statutes, 1998 Supplement, to read:

30 212.08 Sales, rental, use, consumption, distribution,
31 and storage tax; specified exemptions.--The sale at retail,

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1 the rental, the use, the consumption, the distribution, and
2 the storage to be used or consumed in this state of the
3 following are hereby specifically exempt from the tax imposed
4 by this chapter.

5 (17) EXEMPTIONS: CERTAIN GOVERNMENT CONTRACTORS.--

6 (a) Subject to paragraph (d), the tax imposed by this
7 chapter does not apply to the sale or use by a government
8 contractor of overhead materials. The term "government
9 contractor" shall include prime contractors and
10 subcontractors.

11 (b) As used in this subsection, "overhead materials"
12 means all tangible personal property, other than qualifying
13 property as defined in s. 212.02(14)(a) and electricity, used
14 or consumed in the performance of a qualifying contract, title
15 to which property vests in or passes to the government under
16 the contract.

17 (c) As used in this subsection and in s.
18 212.02(14)(a), "qualifying contract" means a contract with the
19 United States Department of Defense or the National
20 Aeronautics and Space Administration, or a subcontract
21 thereunder, but does not include a contract or subcontract for
22 the repair, alteration, improvement or construction of real
23 property except to the extent that purchases under such a
24 contract would otherwise be exempt from the tax imposed by
25 this chapter.

26 (d) The exemption provided in this subsection shall
27 apply as follows:

28 1. Beginning July 1, 1999, the tax imposed by this
29 chapter shall be applicable to 80 percent of the sales price
30 or cost price of such overhead materials.

31 2. Beginning July 1, 2000, the tax imposed by this

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1 chapter shall be applicable to 60 percent of the sales price
2 or cost price of such overhead materials.

3 3. Beginning July 1, 2001, the tax imposed by this
4 chapter shall be applicable to 40 percent of the sales price
5 or cost price of such overhead materials.

6 4. Beginning July 1, 2002, the tax imposed by this
7 chapter shall be applicable to 20 percent of the sales price
8 or cost price of such overhead materials.

9 5. Beginning July 1, 2003, the entire sales price or
10 cost price of such overhead materials is exempt from the tax
11 imposed by this chapter.

12 The exemption provided in this subsection shall not apply to
13 any part of the cost of overhead materials allocated to a
14 contract which is not a qualifying contract.

15 (e) Possession by a seller of a resale certificate or
16 direct pay permit relieves the seller from the responsibility
17 of collecting the tax, and the department shall look solely to
18 the contractor for recovery of such tax if it determines that
19 the contractor was not entitled to the exemption. The
20 contractor shall self-accrue and remit any applicable sales or
21 use tax due with respect to overhead materials and with
22 respect to costs allocable to contracts which are not
23 qualifying contracts. The department is authorized to amend
24 its rules to reflect the use of resale certificates and direct
25 pay permits with respect to the exemption provided for in this
26 subsection.

27 (2) Nothing in this section shall be construed as an
28 expression of legislative intent as to the applicability of
29 any tax to any sale or use of overhead materials prior to July
30 1, 1999. Further, nothing in this section shall be construed
31 as implying that transactions or costs not described in this

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1 section are taxable.

2 Section 3. Except as otherwise provided in Section 1,
3 this act shall take effect July 1, 1999.

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6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 On page 1, lines 2-17

9 remove from the title of the bill: all of said lines

10

11 and insert in lieu thereof:

12 An act relating to tax on sales, use and other transactions;
13 amendment s. 212.02, F.S.; providing that a sale for resale
14 includes the sale of certain tangible personal property used
15 or consumed by a government contractor in the performance of a
16 contract with the United States Department of Defense or the
17 National Aeronautics and Space Administration under certain
18 conditions; providing intent; amending s. 212.08, F.S.;
19 providing an exemption for sales or use by a government
20 contractor of overhead materials used or consumed in the
21 performance of such a contract under certain conditions;
22 providing definitions; providing a schedule for implementing
23 the exemption; providing intent; providing an effective date.

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