

STORAGE NAME: h0545.bdt

DATE: March 1, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE
ANALYSIS**

BILL #: HB 545

RELATING TO: Sales Tax/Government Contractors

SPONSOR(S): Representatives Sublette and Goode

COMPANION BILL(S):

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

- (1) BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE
 - (2) FINANCE AND TAXATION
 - (3) TRANSPORTATION AND ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

This bill provides that a sale for resale under chapter 212, Florida Statutes, includes the sale of certain tangible personal property used or consumed by a government contractor in performance of a contract with the United States Department of Defense or the National Aeronautics and Space Administration under certain conditions.

The bill provides a sales tax exemption for sales to or use by a government contractor of overhead materials which are used or consumed in performance of such a contract under certain conditions.

The bill provides a schedule for implementing the exemption over a 5-year period beginning July 1, 1999.

The exemption provided by this bill would be phased in over a five year period with 20 percent exempt from taxation each year until all specified materials were totally tax exempt. The estimated fiscal impact for FY 99-00 is (\$2.5m), reflecting the reduction in tax collections for the first year of the five year phase-in period. The tax reduction for the second year of the phase-in is estimated at (\$5.9m) for FY 00-01.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Section 212.02, (14)(a), Florida Statutes, defines "retail sale" or a "sale at retail" as 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 212.02, F.S., and includes all such transactions that may be made in lieu of retail sales or sales at retail.

Section 212.06, F.S., is the section of law dealing with sales, storage and use tax. Dealers collect such taxes from purchasers and remit said collections to the state pursuant to the provisions of this section. Legislative intent as to the scope of tax is included in this section.

B. EFFECT OF PROPOSED CHANGES:

See Section by Section.

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?

N/A

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

N/A

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

N/A

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?

N/A

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

Yes.

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

N/A

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

N/A

3. Personal Responsibility:

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

N/A

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

N/A

4. Individual Freedom:

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

N/A

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

N/A

5. Family Empowerment:

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

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

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

N/A

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?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 212.02 and 212.06, Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

Section 1 Amends Section 212.02, Florida Statutes, 1998 Supplement. Amends the definition of "retail sale" or "sale at retail" to include a sale of qualifying property. Defines "qualifying property" as tangible property used or consumed by a government contractor in performance of a qualifying contract when the property is a direct item of cost to such contract and the title to such property passes to the government under the contract. The bill removes a contractor's use of qualifying property from the otherwise applicable tax provisions of s. 212.02(20), F.S. Provides intent that this change clarifies and conforms existing law with respect to the tax imposed by Chapter 212, F.S.

Section 2 Adds subsection (17) to section 212.06, F.S., 1998 Supplement. Provides that the tax imposed by Chapter 212, F.S., does not apply to overhead materials used by a government contractor. "Overhead materials" is defined as any tangible personal property, other than electricity, used or consumed in the performance of a qualifying contract, the cost of which is allocated, in whole or in part, to two or more contracts, at least one of which is a qualifying contract, title to which property vests in or passes to the government under the contract. "Qualifying contract" is defined as a contract with the United States Department of Defense or the National Aeronautics and Space Administration, or a subcontract thereunder, which relates to the matters of national defense, to space flight as defined by s. 212.02(23), F.S., or to other National Aeronautics and Space Administration or Department of Defense aviation or aerospace efforts or programs.

The tax exemption is phased in as follows: Beginning July 1, 1999, the tax imposed shall be applicable to 80 percent of the sales price or cost price of such overhead materials. Beginning July 1, 2000, the tax shall be applicable to 60 percent . . . of such overhead materials. Beginning July 1, 2001, the tax imposed shall be applicable to 40 percent . . . of such overhead materials. Beginning July 1, 2002, the tax imposed shall be applicable to 20 percent . . . of such overhead materials. Beginning July 1, 2003, the entire sales price or cost price of such overhead materials is exempt from the tax.

Section 3 Provides for an effective date of July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

The exemption provided by this bill would be phased in over a five year period with 20 percent exempt from taxation each year until all specified materials were totally tax exempt.

The estimated fiscal impact for FY 99-00 of (\$2.5m) reflects the reduction in tax collections for the first year of the five year phase in period. The tax reduction for the second year of the phase in is estimated at (\$5.9m) for FY 00-01. Subsequent years' tax collections would be reduced by 20 percent until all the specified costs were exempt.

The Revenue Estimating Conference estimates the annualized cost for FY 99-00 at (\$14.1m). This figure represents the cost if the exemption was implemented totally for that fiscal year.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

See Recurring Effects, Section III.A.2.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

The bill would create a more favorable business climate for businesses who compete for NASA or the Department of Defense aviation or aerospace contracts. Some other states have similar exemptions which allow them to offer lower bids for such contracts. This bill would allow Florida contractors to offer lower priced proposals.

According to the industry, NASA and DOD contracts awarded to Florida-based contractors exceeded \$7 million in 1997.

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

The bill would allow Florida contractors to offer lower prices in bids for NASA and DOD contracts.

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE:

Prepared by:

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