

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 Business Development & International Trade offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Paragraph (zz) is added to subsection (7) of section 212.08, Florida Statutes, 1998 Supplement, 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.--

(zz) Advertising agencies.--

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

2. The sale of advertising services by an advertising

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1 agency to a client is exempt from the tax imposed by this
2 chapter. Also exempt from the tax imposed by this chapter are
3 items of tangible personal property such as photographic
4 negatives and positives, videos, films, galleys, mechanicals,
5 veloxes, illustrations, digital audiotapes, analog tapes,
6 printed advertisement copies, compact discs for the purpose of
7 recording, digital equipment, and artwork and the services
8 used to produce those items if the items are:

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

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

15 c. Sold by an advertising agency to its clients in the
16 performance of advertising services for the clients, whether
17 or not the charges for these items are marked up or separately
18 stated.

19
20 The exemption provided by this subparagraph does not apply
21 when tangible personal property such as film, paper, and
22 videotapes is purchased to create items such as photographic
23 negatives and positives, videos, films, galleys, mechanicals,
24 veloxes, illustrations, and artwork that are sold to an
25 advertising agency or produced in house by an advertising
26 agency on behalf of its clients.

27 3. The items exempted from tax under subparagraph 2.
28 and the creative services used by an advertising agency to
29 design the advertising for promotional goods such as displays,
30 display containers, exhibits, newspaper inserts, brochures,
31 catalogues, direct mail letters or flats, shirts, hats, pens,

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1 pencils, key chains, or other printed goods or materials are
2 not subject to tax. However, when such promotional goods are
3 produced or reproduced for distribution, tax applies to the
4 sales price charged to the client for such promotional goods.

5 4. For items purchased by an advertising agency and
6 exempt from tax under this paragraph, possession of an
7 exemption certificate from the advertising agency certifying
8 the agency's entitlement to exemption relieves the vendor of
9 the responsibility of collecting the tax on the sale of such
10 items to the advertising agency, and the department shall look
11 solely to the advertising agency for recovery of tax if it
12 determines that the advertising agency was not entitled to the
13 exemption.

14 5. The exemptions provided by this paragraph apply
15 retroactively, except that all taxes that have been collected
16 must be remitted, and taxes that have been remitted before
17 July 1, 1999, on transactions that are subject to exemption
18 under this paragraph are not subject to refund.

19 6. The Department may adopt rules that interpret or
20 define the provisions of this exemption and provide examples
21 regarding the application of this exemption.

22
23 Exemptions provided to any entity by this subsection shall not
24 inure to any transaction otherwise taxable under this chapter
25 when payment is made by a representative or employee of such
26 entity by any means, including, but not limited to, cash,
27 check, or credit card even when that representative or
28 employee is subsequently reimbursed by such entity.

29 Section 2. This act shall take effect July 1, 1999.
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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 1, line 3, after "transactions;"

4 To Page 1, line 11,

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

6

7 and insert in lieu thereof:

8 amending s. 212.08, F.S.; defining "advertising

9 agency"; exempting the sale of advertising

10 services by an advertising agency and certain

11 items sold to, produced by, or sold by

12 advertising agencies and related services from

13 the tax; providing for administration;

14 providing for retroactive applicability in

15 certain circumstances; providing an effective

16 date.

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