

By Senator Campbell

33-1358-00

1 A bill to be entitled
 2 An act relating to the tax on sales, use, and
 3 other transactions; amending s. 212.08, F.S.;
 4 providing criteria that the Department of
 5 Revenue must follow in assessing the sole or
 6 primary function of a nonprofit organization
 7 that raises funds for or makes grants to
 8 organizations holding consumer's certificates
 9 of exemption; providing prerequisites to
 10 departmental rejection of an exemption applied
 11 for by such an organization under s.
 12 212.08(7)(zz), F.S.; providing an effective
 13 date.

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 15 Be It Enacted by the Legislature of the State of Florida:

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 17 Section 1. Paragraph (zz) of subsection (7) of section
 18 212.08, Florida Statutes, is amended to read:

19 212.08 Sales, rental, use, consumption, distribution,
 20 and storage tax; specified exemptions.--The sale at retail,
 21 the rental, the use, the consumption, the distribution, and
 22 the storage to be used or consumed in this state of the
 23 following are hereby specifically exempt from the tax imposed
 24 by this chapter.

25 (7) MISCELLANEOUS EXEMPTIONS.--

26 (zz) Nonprofit organizations raising funds for or
 27 making grants to organizations holding consumer's certificate
 28 of exemption.--Sales or leases to an organization that ~~which~~
 29 holds current exemption from federal income tax pursuant to s.
 30 501(c)(3) of the Internal Revenue Code, as amended, the sole
 31 or primary function of which is to raise funds for or make

1 grants to another organization or organizations currently
2 holding a consumer's certificate of exemption issued by the
3 department are exempt from the tax imposed by this chapter. In
4 assessing an organization's sole or primary function for
5 purposes of this paragraph, the department may not reject the
6 organization's application for a consumer certificate of sales
7 tax exemption solely because the applicant expends in excess
8 of 50 percent of its operating expenditures towards
9 nonqualified charitable services. If the department intends to
10 reject an application under this paragraph based upon a
11 finding that the applicant has not demonstrated that its sole
12 or primary function is to raise funds or make grants to
13 organizations that hold consumer's certificates of exemption,
14 the department must articulate and inform the applicant of
15 what sole or primary function it has determined the applicant
16 actually performs and must provide to the applicant an
17 opportunity to rebut that finding.

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

25 Section 2. This act shall take effect July 1, 2000.

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SENATE SUMMARY

Provides criteria that the Department of Revenue must follow in assessing the sole or primary function of an organization for purposes of granting or denying an exemption from the tax on sales, use, or other transactions to a nonprofit organization that raises funds for or makes grants to organizations holding consumer's certificates of exemption. If the department denies the exemption on the grounds that the applicant's sole or primary function disqualifies it, the department must inform the applicant of what sole or primary function it has determined the applicant performs and must allow the applicant an opportunity to rebut the finding.