

By Senator Justice

16-1095-07

See HB

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A bill to be entitled

An act relating to enterprise zone business property use tax exemption; amending s. 212.08, F.S.; revising refund requirements for the exemption for certain business property used in an enterprise zone; revising the definition of "business property"; providing an effective date.

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

Section 1. Paragraph (h) of subsection (5) of section 212.08, Florida Statutes, is amended 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.

(5) EXEMPTIONS; ACCOUNT OF USE.--

(h) Business property used in an enterprise zone.--

1. Business property purchased for use by businesses located in an enterprise zone which is subsequently used in an enterprise zone shall be exempt from the tax imposed by this chapter. This exemption inures to the business only through a refund of previously paid taxes. A refund shall be authorized upon an affirmative showing by the taxpayer to the satisfaction of the department that the requirements of this paragraph have been met.

2. To receive a refund, the business must file under oath with the governing body or enterprise zone development

1 agency having jurisdiction over the enterprise zone where the
2 business is located, as applicable, an application which
3 includes:

4 a. The name and address of the business claiming the
5 refund.

6 b. The identifying number assigned pursuant to s.
7 290.0065 to the enterprise zone in which the business is
8 located.

9 c. A specific description of the property for which a
10 refund is sought, including its serial number or other
11 permanent identification number.

12 d. The location of the property.

13 e. The sales invoice or other proof of purchase of the
14 property, showing the amount of sales tax paid, the date of
15 purchase, and the name and address of the sales tax dealer
16 from whom the property was purchased.

17 f. Whether the business is a small business as defined
18 by s. 288.703(1).

19 g. If applicable, the name and address of each
20 permanent employee of the business, including, for each
21 employee who is a resident of an enterprise zone, the
22 identifying number assigned pursuant to s. 290.0065 to the
23 enterprise zone in which the employee resides.

24 3. Within 10 working days after receipt of an
25 application, the governing body or enterprise zone development
26 agency shall review the application to determine if it
27 contains all the information required pursuant to subparagraph
28 2. and meets the criteria set out in this paragraph. The
29 governing body or agency shall certify all applications that
30 contain the information required pursuant to subparagraph 2.
31 and meet the criteria set out in this paragraph as eligible to

1 receive a refund. If applicable, the governing body or agency
2 shall also certify if 20 percent of the employees of the
3 business are residents of an enterprise zone, excluding
4 temporary and part-time employees. The certification shall be
5 in writing, and a copy of the certification shall be
6 transmitted to the executive director of the Department of
7 Revenue. The business shall be responsible for forwarding a
8 certified application to the department within the time
9 specified in subparagraph 4.

10 4. An application for a refund pursuant to this
11 paragraph must be submitted to the department within 6 months
12 after the tax is due on the business property that is
13 purchased.

14 5. The provisions of s. 212.095 do not apply to any
15 refund application made pursuant to this paragraph. The amount
16 refunded on purchases of business property under this
17 paragraph shall be the lesser of 97 percent of the sales tax
18 paid on such business property or \$5,000, or, if no less than
19 20 percent of the employees of the business are residents of
20 an enterprise zone, excluding temporary and part-time
21 employees, the amount refunded on purchases of business
22 property under this paragraph shall be the lesser of 97
23 percent of the sales tax paid on such business property or
24 \$10,000. A refund approved pursuant to this paragraph shall be
25 made within 30 days of formal approval by the department of
26 the application for the refund. No refund shall be granted
27 under this paragraph unless the amount to be refunded exceeds
28 ~~\$300~~\$100 in sales tax paid on combined purchases made within
29 a 90-day ~~60-day~~ time period.

30 6. The department shall adopt rules governing the
31 manner and form of refund applications and may establish

1 guidelines as to the requisites for an affirmative showing of
2 qualification for exemption under this paragraph.

3 7. If the department determines that the business
4 property is used outside an enterprise zone within 3 years
5 from the date of purchase, the amount of taxes refunded to the
6 business purchasing such business property shall immediately
7 be due and payable to the department by the business, together
8 with the appropriate interest and penalty, computed from the
9 date of purchase, in the manner provided by this chapter.

10 Notwithstanding this subparagraph, business property used
11 exclusively in:

- 12 a. Licensed commercial fishing vessels,
- 13 b. Fishing guide boats, or
- 14 c. Ecotourism guide boats

15
16 that leave and return to a fixed location within an area
17 designated under s. 370.28 are eligible for the exemption
18 provided under this paragraph if all requirements of this
19 paragraph are met. Such vessels and boats must be owned by a
20 business that is eligible to receive the exemption provided
21 under this paragraph. This exemption does not apply to the
22 purchase of a vessel or boat.

23 8. The department shall deduct an amount equal to 10
24 percent of each refund granted under the provisions of this
25 paragraph from the amount transferred into the Local
26 Government Half-cent Sales Tax Clearing Trust Fund pursuant to
27 s. 212.20 for the county area in which the business property
28 is located and shall transfer that amount to the General
29 Revenue Fund.

30 9. For the purposes of this exemption, "business
31 property" means new or used property defined as "recovery

1 property" in s. 168(c) of the Internal Revenue Code of 1954,
2 as amended, except:
3 a. Property classified as 3-year property under s.
4 168(c)(2)(A) of the Internal Revenue Code of 1954, as
5 amended.†
6 b. Industrial machinery and equipment as defined in
7 sub-subparagraph (b)6.a. and eligible for exemption under
8 paragraph (b).†
9 c. Building materials as defined in sub-subparagraph
10 (g)8.a.~~†~~ and
11 ~~d. Business property having a sales price of under~~
12 ~~\$5,000 per unit.~~
13 10. This paragraph expires on the date specified in s.
14 290.016 for the expiration of the Florida Enterprise Zone Act.
15 Section 2. This act shall take effect July 1, 2007.
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