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CS/CS/CS/HB 1133

2016 Legislature

1  
 2 An act relating to applicability of revenue laws to  
 3 out-of-state businesses during disaster-response  
 4 periods; amending s. 213.055, F.S.; providing  
 5 definitions; providing exemptions from certain  
 6 registration and licensing requirements and taxes for  
 7 out-of-state businesses and employees that enter the  
 8 state in response to a disaster or an emergency;  
 9 specifying the applicability of certain transaction  
 10 taxes and fees; specifying the obligations and  
 11 privileges of an out-of-state business or employee  
 12 after the disaster-response period; providing an  
 13 effective date.

14  
 15 Be It Enacted by the Legislature of the State of Florida:

16  
 17 Section 1. Section 213.055, Florida Statutes, is amended  
 18 to read:

19 213.055 Declared emergency; waiver or suspension of  
 20 specified revenue laws and other requirements. ~~The following~~  
 21 ~~actions to waive or suspend a revenue law may be implemented~~  
 22 ~~only when the Governor has declared a state of emergency~~  
 23 ~~pursuant to s. 252.36.~~

24 (1) (a) The Governor and Cabinet may grant refunds of state  
 25 and local taxes on motor and diesel fuel donated during a  
 26 ~~declared~~ state of emergency declared pursuant to s. 252.36 for

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27 | official emergency use in cases in which the state solicits the  
 28 | donation. The refunds may be implemented by a vote of the  
 29 | majority of the Governor and Cabinet during a public meeting or  
 30 | by a majority jointly signing a written order.

31 | (b) The authorized refunds of state and local taxes on  
 32 | motor and diesel fuel apply to taxes imposed by chapter 206.

33 | (2) Notwithstanding any other provision of law, the  
 34 | executive director of the Department of Revenue may implement  
 35 | the following actions during a ~~declared~~ state of emergency  
 36 | declared pursuant to s. 252.36 for those revenue sources over  
 37 | which the department is granted administrative control pursuant  
 38 | to s. 213.05:

39 | (a) Extend the stipulated due date for tax returns and  
 40 | accompanying tax payments; and

41 | (b) Waive interest that accrues during the period of the  
 42 | state of emergency on taxes due prior to and during the period  
 43 | of the disaster.

44 | (3) (a) As used in this subsection, the term:

45 | 1. "Disaster-response period" means:

46 | a. A period that begins 10 calendar days before the first  
 47 | day of a state of emergency declared pursuant to s. 252.36 and  
 48 | ends on the 60th calendar day after the end of the declared  
 49 | state of emergency; or

50 | b. A period that begins on the date that an out-of-state  
 51 | business enters this state in good faith under a mutual aid  
 52 | agreement and in anticipation of a disaster or an emergency,

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53 regardless of whether a state of emergency is declared, and ends  
54 on the date that the work is concluded, or 7 calendar days after  
55 the out-of-state business enters this state, whichever occurs  
56 first.

57 2. "Emergency-related work" means repairing, renovating,  
58 installing, building, rendering services, or other business  
59 activities that relate to infrastructure that is damaged,  
60 impaired, or destroyed by an event that has resulted in a  
61 declaration of a state of emergency or performing such  
62 activities in anticipation of or in response to a disaster or an  
63 emergency, regardless of whether a state of emergency is  
64 declared.

65 3. "Infrastructure" means public roads; public bridges;  
66 and property, equipment, and related support facilities owned or  
67 used by communication networks, electric generating systems,  
68 electric transmission and distribution systems, gas transmission  
69 and distribution systems, or water pipelines.

70 4. "Mutual aid agreement" means an agreement to which two  
71 or more business entities are parties and under which a public  
72 utility, municipally owned utility, electric cooperative,  
73 natural gas special district, natural gas transmission pipeline,  
74 or joint agency owning, operating, or owning and operating  
75 infrastructure used for electric generation, electric or gas  
76 transmission, or electric or gas distribution in this state may  
77 request that an out-of-state business perform work in this state  
78 in anticipation of a disaster or an emergency.

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79 5. "Out-of-state business" means a business entity that:

80 a. Does not have a presence in this state, except with  
 81 respect to the performance of emergency-related work, that  
 82 conducts no business in this state, and the services of which  
 83 are requested by a registered business or by a unit of state or  
 84 local government for purposes of performing emergency-related  
 85 work in this state; and

86 b. Is not registered and does not have tax filings or  
 87 presence sufficient to require the collection or payment of a  
 88 tax in this state during the tax year immediately before the  
 89 disaster-response period.

90  
 91 The term also includes a business entity that is affiliated with  
 92 a registered business solely through common ownership.

93 6. "Out-of-state employee" means an employee who does not  
 94 work in this state, except for emergency-related work on  
 95 infrastructure during a disaster-response period.

96 7. "Registered business" means a business entity that is  
 97 registered to do business in this state before the disaster-  
 98 response period begins.

99 (b)1. Notwithstanding any other law, an out-of-state  
 100 business that is conducting operations within this state during  
 101 a disaster-response period solely for purposes of performing  
 102 emergency-related work or pursuant to a mutual aid agreement is  
 103 not considered to have established a level of presence that  
 104 would require that business to register, file, and remit state

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105 or local taxes or fees or require that business to be subject to  
 106 any registration, licensing, or filing requirements in this  
 107 state. For purposes of any state or local tax on or measured, in  
 108 whole or in part, by net or gross income or receipts, the  
 109 activity of the out-of-state business conducted in this state  
 110 during the disaster-response period must be disregarded with  
 111 respect to any filing requirements for such tax, including the  
 112 filing required for a consolidated group of which the out-of-  
 113 state business may be a part. This includes the following:

- 114 a. Reemployment assistance taxes.
- 115 b. State or local professional or occupational licensing  
 116 requirements or related fees.
- 117 c. Local business taxes.
- 118 d. Taxes on the operation of commercial motor vehicles.
- 119 e. Corporate income tax.
- 120 f. Tangible personal property tax and use tax on equipment  
 121 that is brought into the state by the out-of-state business,  
 122 used by the out-of-state business only to perform emergency-  
 123 related work during the disaster-response period, and removed  
 124 from the state by the out-of-state business after the disaster-  
 125 response period.

126 2. Notwithstanding any other law, an out-of-state employee  
 127 whose only employment in this state is for the performance of  
 128 emergency-related work or pursuant to a mutual aid agreement  
 129 during a disaster-response period is not required to comply with  
 130 state or local occupational licensing requirements or related

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131 | fees.

132 |       (c) An out-of-state business or out-of-state employee who  
133 | remains in this state after the disaster-response period is not  
134 | entitled to the privileges provided in this subsection for  
135 | activities performed after the disaster-response period ends and  
136 | is subject to the state's normal standards for establishing  
137 | presence or residency or for doing business in the state.

138 |       Section 2. This act shall take effect upon becoming a law.