

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Stevenson offered the following:

Amendment (with title amendment)

Between lines 320 and 321, insert:

Section 4. Paragraph (b) of subsection (5) of section 212.06, Florida Statutes, is amended to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.-

(5)

(b)1. As used in this subsection, the term:

a. "Certificate" means a Florida Certificate of Forwarding Agent Address.

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14 b. "Electronic database" means the database created and
15 maintained by the department pursuant to s. 202.22(2).

16 ~~c.b.~~ "Facilitating" means preparation for or arranging for
17 export.

18 ~~d.e.~~ "Forwarding agent" means a person or business whose
19 principal business activity is facilitating for compensation the
20 export of property owned by other persons.

21 ~~e.d.~~ "NAICS" means those classifications contained in the
22 North American Industry Classification System as published in
23 2007 by the Office of Management and Budget, Executive Office of
24 the President.

25 ~~f.e.~~ "Principal business activity" means the activity from
26 which the person or business derives the highest percentage of
27 its total receipts.

28 2. A forwarding agent engaged in international export may
29 apply to the department for a certificate.

30 3. Each application must include all of the following:

31 a. The designation of an address for the forwarding agent.

32 b. A certification that:

33 (I) The tangible personal property delivered to the
34 designated address ~~for export~~ originates with a United States
35 vendor;

36 (II) The tangible personal property delivered to the
37 designated address for export is irrevocably committed to export

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38 out of the United States through a continuous and unbroken
39 exportation process; and

40 (III) The designated address is used exclusively by the
41 forwarding agent for such export.

42 c. A copy of the forwarding agent's last filed federal
43 income tax return showing the entity's principal business
44 activity classified under NAICS code 488510, except as provided
45 under subparagraph 4. or subparagraph 5.

46 d. A statement of the total revenues of the forwarding
47 agent.

48 e. A statement of the amount of revenues associated with
49 international export of the forwarding agent.

50 f. A description of all business activity that occurs at
51 the designated address.

52 g. The name and contact information of a designated
53 contact person of the forwarding agent.

54 h. The forwarding agent's website address.

55 i. Any additional information the department requires by
56 rule to demonstrate eligibility for the certificate.

57 j. ~~and~~ A signature attesting to the validity of the
58 information provided.

59 4. An applicant that has not filed a federal return for
60 the preceding tax year under NAICS code 488510 shall provide all
61 of the following:

62 a. A statement of estimated total revenues.

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63 b. A statement of estimated revenues associated with
64 international export.

65 c. The NAICS code under which the forwarding agent intends
66 to file a federal return.

67 5. If an applicant does not file a federal return
68 identifying a NAICS code, the applicant must ~~shall~~ provide
69 documentation to support that its principal business activity is
70 that of a forwarding agent and that the applicant is otherwise
71 eligible for the certificate.

72 6. A forwarding agent that applies for and receives a
73 certificate shall register as a dealer with the department. An
74 applicant may not be required to submit an application to
75 register as a dealer when application is made for a certificate,
76 or renewal of a certificate, if the applicant is already
77 registered as a dealer with the department.

78 7. A forwarding agent must ~~shall~~ remit the tax imposed
79 under this chapter on any tangible personal property shipped to
80 the certified ~~designated forwarding agent~~ address if no tax was
81 collected and the tangible personal property remained in this
82 state or if delivery to the purchaser or purchaser's
83 representative occurs in this state. This subparagraph does not
84 prohibit the forwarding agent from collecting such tax from the
85 consumer of the tangible personal property.

86 8. A forwarding agent shall maintain the following
87 records:

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88 a. Copies of sales invoices or receipts between the vendor
89 and the consumer when provided by the vendor to the forwarding
90 agent. If sales invoices or receipts are not provided to the
91 forwarding agent, the forwarding agent must maintain export
92 documentation evidencing the value of the purchase consistent
93 with the federal Export Administration Regulations, 15 C.F.R.
94 parts 730-774.

95 b. Copies of federal returns evidencing the forwarding
96 agent's NAICS principal business activity code.

97 c. Copies of invoices or other documentation evidencing
98 shipment to the forwarding agent.

99 d. Invoices between the forwarding agent and the consumer
100 or other documentation evidencing the ship-to destination
101 outside the United States.

102 e. Invoices for foreign postal or transportation services.

103 f. Bills of lading.

104 g. Any other export documentation.

105
106 Such records must be kept in an electronic format and made
107 available for the department's review pursuant to subparagraph
108 9. and ss. 212.13 and 213.35.

109 9. Each certificate expires 5 years after the date of
110 issuance, except as specified in this subparagraph.

111 a. At least 30 days before expiration, a new application
112 must be submitted to renew the certificate, and the application

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113 must contain the information required in subparagraph 3. Upon
114 application for renewal, the certificate is subject to the
115 review and reissuance procedures prescribed by this chapter and
116 department rule.

117 b. Each forwarding agent shall update its application
118 information annually or within 30 days after any material
119 change.

120 c. The department shall verify that the forwarding agent
121 is actively engaged in facilitating the international export of
122 tangible personal property.

123 d. The department may suspend or revoke the certificate of
124 any forwarding agent that fails to respond within 30 days to a
125 written request for information regarding its business
126 transactions.

127 e. Each forwarding agent shall surrender its certificate
128 to the department if:

129 (I) The forwarding agent has ceased to do business;

130 (II) The forwarding agent has changed addresses;

131 (III) The forwarding agent's principal business activity
132 has changed to something other than facilitating the
133 international export of property owned by other persons; or

134 (IV) The certified address is not used for export under
135 this paragraph.

136 10.a. The department shall provide a list on the
137 department's website of forwarding agents that have applied for

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138 and received a Florida Certificate of Forwarding Agent Address
139 from the department. The list must include a forwarding agent's
140 entity name, address, and expiration date as provided on the
141 Florida Certificate of Forwarding Agent Address.

142 b. For any certified address with a special five-digit zip
143 code provided by the United States Postal Service, the
144 department shall report the state sales tax rate and
145 discretionary sales surtax rate in the department's Tax and
146 Address Lookup System as zero. This sub-subparagraph does not
147 apply to a certified address with a special five-digit zip code
148 provided by the United States Postal Service if that address
149 includes a suite address or secondary address.

150 11. A dealer, other than a forwarding agent that is
151 required to remit tax pursuant to subparagraph 7., may not
152 collect the tax imposed under this chapter on tangible personal
153 property shipped to a certified address listed ~~may accept a copy~~
154 ~~of the forwarding agent's certificate or rely on the list of~~
155 ~~forwarding agents' names and addresses on the department's~~
156 ~~website in lieu of collecting the tax imposed under this chapter~~
157 ~~when the property is required by terms of the sale to be shipped~~
158 ~~to the designated address on the certificate.~~ A dealer who
159 accepts a valid copy of a certificate or who relies on the list
160 of forwarding agents' names and addresses on the department's
161 website or the electronic database and who in good faith ~~and~~
162 ships ~~purchased~~ tangible personal property to a certified the

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163 address ~~on the certificate~~ is not liable for any tax due on
164 sales made during the effective dates indicated on the
165 certificate.

166 12. The department may revoke a forwarding agent's
167 certificate for noncompliance with this paragraph. Any person
168 found to fraudulently use the address on the certificate for the
169 purpose of evading tax is subject to the penalties provided in
170 s. 212.085.

171 13. The department may adopt rules to administer this
172 paragraph, including, but not limited to, rules relating to
173 procedures, application and eligibility requirements, and forms.

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175 -----

176 **T I T L E A M E N D M E N T**

177 Remove line 9 and insert:
178 certain sales occurred within; amending s. 212.06,
179 F.S.; defining the term "electronic database";
180 revising application requirements for forwarding
181 agents when applying to the Department of Revenue for
182 a certain certificate; providing that an applicant may
183 not be required to submit an application to register
184 as a dealer under certain circumstances; requiring a
185 forwarding agent to surrender its certificate to the
186 department under specified circumstances; providing
187 that certain addresses have specified reported tax

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188 rates; providing an exception; providing
189 applicability; prohibiting certain dealers from
190 collecting certain taxes under certain circumstances;
191 revising the liability of a dealer under certain
192 circumstances; amending s. 213.21

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