

By Senator Rodriguez

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A bill to be entitled
An act relating to forwarding agent certificates;
amending s. 212.06, F.S.; revising application
requirements for forwarding agents when applying to
the Department of Revenue for a certain certificate;
requiring a forwarding agent that applies for and
receives such certificate to notify the department
within a specified timeframe under certain
circumstances; prohibiting the department from
requiring a forwarding agent to resubmit an
application during a certain timeframe; requiring the
department to include certain information in its
online address and jurisdiction database; prohibiting
a dealer from collecting certain taxes under certain
circumstances; making technical changes; providing an
effective date.

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

Section 1. 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.

b. "Facilitating" means preparation for or arranging for

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export.

c. "Forwarding agent" means a person or business whose principal business activity is facilitating for compensation the export of property owned by other persons.

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

e. "Principal business activity" means the activity from which the person or business derives the highest percentage of its total receipts.

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

3. Each application must include all of the following:

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

b. A certification that:

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

(II) The tangible personal property delivered to the designated address for export is irrevocably committed to export out of the United States through a continuous and unbroken exportation process; and

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

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

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59 d. A statement of the total revenues of the forwarding
60 agent.

61 e. A statement of the amount of revenues associated with
62 international export of the forwarding agent.

63 f. A description of all business activity that occurs at
64 the designated address.

65 g. The name and contact information of a designated contact
66 person of the forwarding agent.

67 h. The forwarding agent's website address.

68 i. Any additional information the department requires by
69 rule to demonstrate eligibility for the certificate, except that
70 if the forwarding agent is registered as a dealer with the
71 department, the department may not require the forwarding agent
72 to submit a Florida Business Tax application with the
73 application for a certificate under this paragraph.

74 j. ~~and~~ A signature attesting to the validity of the
75 information provided.

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

79 a. A statement of estimated total revenues.

80 b. A statement of estimated revenues associated with
81 international export.

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

84 5. If an applicant does not file a federal return
85 identifying a NAICS code, the applicant must ~~shall~~ provide
86 documentation to support that its principal business activity is
87 that of a forwarding agent and that the applicant is otherwise

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88 eligible for the certificate.

89 6. A forwarding agent that applies for and receives a
90 certificate shall register as a dealer with the department. The
91 forwarding agent must notify the department within 30 days if:

92 a. The forwarding agent ceases to do business;

93 b. The forwarding agent moves from the address indicated in
94 its application;

95 c. The forwarding agent's principal business activity
96 changes to something other than facilitating the international
97 export of property owned by other persons; or

98 d. The certified address is not used for export.

99 7. A forwarding agent must ~~shall~~ remit the tax imposed
100 under this chapter on any tangible personal property shipped to
101 the designated forwarding agent address if no tax was collected
102 and the tangible personal property remained in this state or if
103 delivery to the purchaser or purchaser's representative occurs
104 in this state. This subparagraph does not prohibit the
105 forwarding agent from collecting such tax from the consumer of
106 the tangible personal property.

107 8. A forwarding agent shall maintain the following records:

108 a. Copies of sales invoices or receipts between the vendor
109 and the consumer when provided by the vendor to the forwarding
110 agent. If sales invoices or receipts are not provided to the
111 forwarding agent, the forwarding agent must maintain export
112 documentation evidencing the value of the purchase consistent
113 with the federal Export Administration Regulations, 15 C.F.R.
114 parts 730-774.

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

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

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

e. Invoices for foreign postal or transportation services.

f. Bills of lading.

g. Any other export documentation.

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

9. Each certificate expires 5 years after the date of issuance, except as specified in this subparagraph. The department may not require the forwarding agent to resubmit an application for a certificate of forwarding agent address during the 5-year period.

a. At least 30 days before expiration, a new application must be submitted to renew the certificate, and the application must contain the information required in subparagraph 3. Upon application for renewal, the certificate is subject to the review and reissuance procedures prescribed by this chapter and department rule.

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

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

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

10. The department shall provide a list on the department's website of forwarding agents that have applied for and received a Florida Certificate of Forwarding Agent Address from the department. The list must include a forwarding agent's entity name, address, and expiration date as provided on the Florida Certificate of Forwarding Agent Address. The department shall indicate in its online address and jurisdiction database whether an address has received a Florida Certificate of Forwarding Agent Address.

11. A dealer may not collect the tax imposed under this chapter on tangible personal property shipped to any certified addresses listed ~~accept a copy of the forwarding agent's certificate or rely on the list of forwarding agents' names and addresses on the department's website, regardless of the person purchasing the tangible personal property in lieu of collecting the tax imposed under this chapter when the property is required by terms of the sale to be shipped to the designated address on the certificate. A dealer who accepts a valid copy of a certificate or relies on the list of forwarding agents' names and addresses on the department's website in good faith and ships purchased tangible personal property to the address on the certificate is not liable for any tax due on sales made during the effective dates indicated on the certificate.~~

12. The department may revoke a forwarding agent's certificate for noncompliance with this paragraph. Any person

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found to fraudulently use the address on the certificate for the purpose of evading tax is subject to the penalties provided in s. 212.085.

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

Section 2. This act shall take effect July 1, 2024.