

1  
2 An act relating to the tax on sales, use, and  
3 other transactions; amending s. 212.08, F.S.;  
4 defining the term "advertising agency";  
5 exempting the sale of advertising services by  
6 an advertising agency and certain items sold  
7 to, produced by, or sold by advertising  
8 agencies and related services from the tax;  
9 providing for administration; providing for  
10 retroactive applicability in certain  
11 circumstances; providing an effective date.  
12

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

15 Section 1. Paragraph (zz) is added to subsection (7)  
16 of section 212.08, Florida Statutes, 1998 Supplement, to read:

17 212.08 Sales, rental, use, consumption, distribution,  
18 and storage tax; specified exemptions.--The sale at retail,  
19 the rental, the use, the consumption, the distribution, and  
20 the storage to be used or consumed in this state of the  
21 following are hereby specifically exempt from the tax imposed  
22 by this chapter.

23 (7) MISCELLANEOUS EXEMPTIONS.--

24 (zz) Advertising agencies.--

25 1. As used in this paragraph, the term "advertising  
26 agency" means any firm that is primarily engaged in the  
27 business of providing advertising materials and services to  
28 its clients.

29 2. The sale of advertising services by an advertising  
30 agency to a client is exempt from the tax imposed by this  
31 chapter. Also exempt from the tax imposed by this chapter are

1 items of tangible personal property such as photographic  
2 negatives and positives, videos, films, galleys, mechanicals,  
3 veloxes, illustrations, digital audiotapes, analog tapes,  
4 printed advertisement copies, compact discs for the purpose of  
5 recording, digital equipment, and artwork and the services  
6 used to produce those items if the items are:

7 a. Sold to an advertising agency that is acting as an  
8 agent for its clients pursuant to contract, and are created  
9 for the performance of advertising services for the clients;

10 b. Produced, fabricated, manufactured, or otherwise  
11 created by an advertising agency for its clients, and are used  
12 in the performance of advertising services for the clients; or

13 c. Sold by an advertising agency to its clients in the  
14 performance of advertising services for the clients, whether  
15 or not the charges for these items are marked up or separately  
16 stated.

17  
18 The exemption provided by this subparagraph does not apply  
19 when tangible personal property such as film, paper, and  
20 videotapes is purchased to create items such as photographic  
21 negatives and positives, videos, films, galleys, mechanicals,  
22 veloxes, illustrations, and artwork that are sold to an  
23 advertising agency or produced in-house by an advertising  
24 agency on behalf of its clients.

25 3. The items exempted from tax under subparagraph 2.  
26 and the creative services used by an advertising agency to  
27 design the advertising for promotional goods such as displays,  
28 display containers, exhibits, newspaper inserts, brochures,  
29 catalogues, direct mail letters or flats, shirts, hats, pens,  
30 pencils, key chains, or other printed goods or materials are  
31 not subject to tax. However, when such promotional goods are

1 produced or reproduced for distribution, tax applies to the  
2 sales price charged to the client for such promotional goods.

3 4. For items purchased by an advertising agency and  
4 exempt from tax under this paragraph, possession of an  
5 exemption certificate from the advertising agency certifying  
6 the agency's entitlement to exemption relieves the vendor of  
7 the responsibility of collecting the tax on the sale of such  
8 items to the advertising agency, and the department shall look  
9 solely to the advertising agency for recovery of tax if it  
10 determines that the advertising agency was not entitled to the  
11 exemption.

12 5. The exemptions provided by this paragraph apply  
13 retroactively, except that all taxes that have been collected  
14 must be remitted, and taxes that have been remitted before  
15 July 1, 1999, on transactions that are subject to exemption  
16 under this paragraph are not subject to refund.

17 6. The department may adopt rules that interpret or  
18 define the provisions of these exemptions and provide examples  
19 regarding the application of these exemptions.

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

27 Section 2. This act shall take effect July 1, 1999.  
28  
29  
30  
31