

STORAGE NAME: h1105s1z.ag
DATE: June 15, 2000

****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2000-276, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
AGRICULTURE
FINAL ANALYSIS**

BILL #: CS/HB 1105

RELATING TO: Sales Tax/Farm Equipment

SPONSOR(S): Committee on Finance and Taxation and Representative Putnam

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) AGRICULTURE YEAS 8 NAYS 0
 - (2) FINANCE AND TAXATION YEAS 10 NAYS 0
 - (3) GENERAL GOVERNMENT APPROPRIATIONS (W/D)
 - (4)
 - (5)
-

I. SUMMARY:

The Committee Substitute for HB 1105 revises application of the partial sales and use tax exemption on self-propelled, power-drawn, or power-driven farm equipment . A list of specified activities in which the equipment must be used is replaced with the requirement that the equipment must be used in "agricultural production." "Agricultural production" is defined.

The bill also reduces the 3 percent tax rate on the qualifying farm equipment to 2.5 percent effective January 1, 2001.

Effective July 1, 2000, the bill revises the application of provisions which exempt from the use tax a person who secures rock, fill dirt, or similar materials from a location he or she owns for use on his or her own property. The provisions are expanded to include affiliated groups. "Affiliated groups" is defined in s. 220.03(1)(b), F.S., as two or more corporations which constitute an affiliated group of corporations as defined in s. 1504(a) of the Internal Revenue Code.

The estimated fiscal impact upon General Revenue is (\$3.0) million for FY 00-01 and (\$5.4) million for FY 01-02. There will be a negative, but insignificant impact on the Solid Waste Management Trust Fund. The estimated fiscal impact upon local governments is (\$0.5) million for FY 00-01 and (\$0.9) million for FY 01-02. The total estimated fiscal impact for this bill is (\$3.5) million for FY 00-01 and (\$6.3) million for FY 01-02.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Prior to October 1, 1998, Florida law provided a partial sales and use tax exemption rate of three percent on farm equipment either self-propelled or power-drawn or used exclusively by a farmer on a farm owned, leased or sharecropped by the farmer in plowing, cultivating, or harvesting crops. The 1998 Legislature extended the partial exemption to self-propelled, power-drawn, or power-driven farm equipment used on a farm or in a forest for plowing, planting, cultivating, or harvesting crops or products in agricultural industries or for related fire prevention and suppression. Section 212.08(3), F.S. The partial exemption does not include equipment used in post-harvest processing or marketing activities.

According to testimony from those representing agricultural interests, even with a partial exemption, it is difficult for farmers, loggers, custom combiners, equipment suppliers and others to compete with their counterparts in neighboring states. Florida's tax rate is higher than the rate in Georgia (0%), South Carolina (0%), Tennessee (0%), North Carolina (1% with an \$80.00 cap), and Alabama (1.5%).

The term "agricultural production," included in the proposed changes, is currently not defined for purposes of sales and use taxes.

Section 212.12(11), F.S., provides that the Department of Revenue may provide by rule for application of the bracket system to transactions subject to state sales or use tax at three percent pursuant to s. 212.08(3), F.S.

Section 212.06(15)(a), F.S., provides that a contractor securing rock, shell, fill dirt, or similar materials from a location that he or she owns or leases for use to fulfill a real property contract on the property of another person is the ultimate consumer of such materials and is liable for use tax thereon. This paragraph does not apply to a person who secures such materials from a location that he or she owns for use on his or her own property. The basis for the tax the contractor must remit is the fair retail market value determined by establishing either the price the contractor would have to pay for it on the open market or the price the contractor would charge if he sold it to another contractor.

Section 220.03(1)(b), F.S., provides the following definition: "Affiliated group of corporations" means two or more corporations which constitute an affiliated group of corporations as defined in s. 1504(a) of the Internal Revenue Code.

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Section 1504(a) of the Internal Revenue Code defines "affiliated group" as one or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation, but only if: 1) the common parent owns directly stock meeting the requirements of the 80-percent voting and value test in at least 1 of the other includible corporations, and 2) stock meeting the requirements of the 80-percent voting and value test in each of the includible corporations (except the common parent) is owned directly by 1 or more of the other includible corporations. The requirements of the 80-percent voting and value test are that the ownership of stock of any corporation possesses at least 80 percent of the total voting power of the stock of such corporation, and has a value equal to at least 80 percent of the total value of the stock of such corporation.

C. EFFECT OF PROPOSED CHANGES:

CS/HB 1105 amends s. 212.08(3), F.S., to extend the partial sales and use tax exemption rate of three percent to equipment used in any stage of agricultural production. Agricultural production is defined. An equipment purchaser, renter, or lessee will be required to sign a certificate stating that the farm equipment will be used exclusively on a farm or in a forest for agricultural production. Rental and lease of exempt equipment are added to the transactions qualifying for the exemption.

The bill reduces the rate of sales and use tax on qualified farm equipment from 3 percent to 2.5 percent.

Affiliated groups will be included in the provision that exempts persons from the sales and use tax when such persons secure rock, fill dirt, or similar materials from a location he, she or it owns to be used on property he, she, or it owns.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: amends s. 212.02, F.S., to define agricultural production as production of plants and animals useful to humans, including preparation, planting, cultivating, or harvesting of products or any other practices necessary to accomplish production through the harvest phase. Aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products and production are included.

Section 2: amends s. 212.08(3), F.S., to extend the sales and use tax exemption to equipment used in any stage of agricultural production, as defined in Section 1 of the bill. Purchasers, renters, or lessees must sign a certificate stating the equipment will be used on a farm or in a forest exclusively for agricultural production. The section also reduces the tax rate from 3 percent to 2.5 percent.

Section 3: amends s. 212.12, F.S., to conform the reference to reflect the phase in of the total exemption.

Section 4: amends s. 212.06(15)(a), F.S., to provide that effective July, 2000, affiliated groups will be included in the provision that exempts persons from the sales and use tax when such persons secure rock, fill dirt, or similar materials from a location he, she or it owns to be used on property he, she, or it owns.

Section 5: provides that except as otherwise provided, the Act shall take effect on January 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. <u>Revenues:</u>	<u>FY 2000-2001</u>	<u>FY 2001-2002</u>
General Revenue	(\$3.0M)	(\$5.4M)
State Trust Funds	Insignificant	Insignificant

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Local Government	(\$0.5)	(\$0.9M)
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2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Farmers and others involved in agricultural production will benefit by paying less sales and use taxes each year. Also, some segments of Florida's agricultural industry may become more competitive with adjacent states that have minimal or no sales and use tax on equipment used in agricultural production.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

CS/HB 1105 does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Although the bill will reduce the authority of municipalities and counties to raise revenues, the impact is expected to be insignificant and the bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

While the bill will reduce the amount of the Local Government Half Cent Sales Tax shared with municipalities and counties, it does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(b), Florida Constitution does not apply.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 23, 2000, the Agriculture Committee adopted an amendment to reduce the 3% tax to 2% over the next two years. The remaining amount will become a dedicated funding source for the already existing Agricultural Emergency Eradication Trust Fund. The amendment traveled with the bill to the Committee on Finance and Taxation.

On April 26, 2000, the Committee on Finance and Taxation adopted a substitute amendment to the amendment adopted by the Committee on Agriculture and another amendment to the bill. These amendments were engrossed into the Committee Substitute. The Committee Substitute lowers the sales tax rate on qualifying farm equipment from 3 percent to 2.5 percent. The original bill phased out the sales tax on qualifying farm equipment over a three year period. The original bill did not include affiliated groups in the provision that exempts persons from the sales and use tax when such persons secure rock, fill dirt, or similar materials from a location he, she or it owns to be used on property he, she, or it owns. Otherwise, the original bill and the Committee Substitute are substantively similar.

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

Prepared by:

Susan D. Reese

Staff Director:

Susan D. Reese

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AS REVISED BY THE COMMITTEE ON FINANCE AND TAXATION:

Prepared by:

Staff Director:

Lynne Overton

Alan Johansen

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON AGRICULTURE:

Prepared by:

Staff Director:

Susan D. Reese

Susan D. Reese