

By Senator Bean

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1 A bill to be entitled
2 An act relating to the taxation of aircraft sales and
3 leases; amending s. 212.05, F.S.; decreasing the sales
4 tax rate on aircraft sales and leases; amending s.
5 212.08, F.S.; decreasing the maximum applicable sales
6 tax rate under the flyable aircraft partial sales tax
7 exemption; providing an effective date.
8

9 Be It Enacted by the Legislature of the State of Florida:
10

11 Section 1. Paragraph (a) of subsection (1) of section
12 212.05, Florida Statutes, is amended to read:

13 212.05 Sales, storage, use tax.—It is hereby declared to be
14 the legislative intent that every person is exercising a taxable
15 privilege who engages in the business of selling tangible
16 personal property at retail in this state, including the
17 business of making mail order sales, or who rents or furnishes
18 any of the things or services taxable under this chapter, or who
19 stores for use or consumption in this state any item or article
20 of tangible personal property as defined herein and who leases
21 or rents such property within the state.

22 (1) For the exercise of such privilege, a tax is levied on
23 each taxable transaction or incident, which tax is due and
24 payable as follows:

25 (a)1.a. At the rate of 6 percent of the sales price of each
26 item or article of tangible personal property when sold at
27 retail in this state, computed on each taxable sale for the
28 purpose of remitting the amount of tax due the state, and
29 including each and every retail sale; except that a sale or

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30 lease of an aircraft is subject to tax at the rate of 4 percent.

31 b. Each occasional or isolated sale of an aircraft, boat,
32 mobile home, or motor vehicle of a class or type which is
33 required to be registered, licensed, titled, or documented in
34 this state or by the United States Government shall be subject
35 to tax at the rate provided in this paragraph. The department
36 shall by rule adopt any nationally recognized publication for
37 valuation of used motor vehicles as the reference price list for
38 any used motor vehicle which is required to be licensed pursuant
39 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
40 party to an occasional or isolated sale of such a vehicle
41 reports to the tax collector a sales price which is less than 80
42 percent of the average loan price for the specified model and
43 year of such vehicle as listed in the most recent reference
44 price list, the tax levied under this paragraph shall be
45 computed by the department on such average loan price unless the
46 parties to the sale have provided to the tax collector an
47 affidavit signed by each party, or other substantial proof,
48 stating the actual sales price. Any party to such sale who
49 reports a sales price less than the actual sales price is guilty
50 of a misdemeanor of the first degree, punishable as provided in
51 s. 775.082 or s. 775.083. The department shall collect or
52 attempt to collect from such party any delinquent sales taxes.
53 In addition, such party shall pay any tax due and any penalty
54 and interest assessed plus a penalty equal to twice the amount
55 of the additional tax owed. Notwithstanding any other provision
56 of law, the Department of Revenue may waive or compromise any
57 penalty imposed pursuant to this subparagraph.

58 2. This paragraph does not apply to the sale of a boat or

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59 aircraft by or through a registered dealer under this chapter to
60 a purchaser who, at the time of taking delivery, is a
61 nonresident of this state, does not make his or her permanent
62 place of abode in this state, and is not engaged in carrying on
63 in this state any employment, trade, business, or profession in
64 which the boat or aircraft will be used in this state, or is a
65 corporation none of the officers or directors of which is a
66 resident of, or makes his or her permanent place of abode in,
67 this state, or is a noncorporate entity that has no individual
68 vested with authority to participate in the management,
69 direction, or control of the entity's affairs who is a resident
70 of, or makes his or her permanent abode in, this state. For
71 purposes of this exemption, either a registered dealer acting on
72 his or her own behalf as seller, a registered dealer acting as
73 broker on behalf of a seller, or a registered dealer acting as
74 broker on behalf of the purchaser may be deemed to be the
75 selling dealer. This exemption shall not be allowed unless:

76 a. The purchaser removes a qualifying boat, as described in
77 sub-subparagraph f., from the state within 90 days after the
78 date of purchase or extension, or the purchaser removes a
79 nonqualifying boat or an aircraft from this state within 10 days
80 after the date of purchase or, when the boat or aircraft is
81 repaired or altered, within 20 days after completion of the
82 repairs or alterations; or if the aircraft will be registered in
83 a foreign jurisdiction and:

84 (I) Application for the aircraft's registration is properly
85 filed with a civil airworthiness authority of a foreign
86 jurisdiction within 10 days after the date of purchase;

87 (II) The purchaser removes the aircraft from the state to a

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88 foreign jurisdiction within 10 days after the date the aircraft
89 is registered by the applicable foreign airworthiness authority;
90 and

91 (III) The aircraft is operated in the state solely to
92 remove it from the state to a foreign jurisdiction.

93
94 For purposes of this sub-subparagraph, the term "foreign
95 jurisdiction" means any jurisdiction outside of the United
96 States or any of its territories;

97 b. The purchaser, within 30 days from the date of
98 departure, provides the department with written proof that the
99 purchaser licensed, registered, titled, or documented the boat
100 or aircraft outside the state. If such written proof is
101 unavailable, within 30 days the purchaser shall provide proof
102 that the purchaser applied for such license, title,
103 registration, or documentation. The purchaser shall forward to
104 the department proof of title, license, registration, or
105 documentation upon receipt;

106 c. The purchaser, within 10 days of removing the boat or
107 aircraft from Florida, furnishes the department with proof of
108 removal in the form of receipts for fuel, dockage, slippage,
109 tie-down, or hangaring from outside of Florida. The information
110 so provided must clearly and specifically identify the boat or
111 aircraft;

112 d. The selling dealer, within 5 days of the date of sale,
113 provides to the department a copy of the sales invoice, closing
114 statement, bills of sale, and the original affidavit signed by
115 the purchaser attesting that he or she has read the provisions
116 of this section;

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117 e. The seller makes a copy of the affidavit a part of his
118 or her record for as long as required by s. 213.35; and

119 f. Unless the nonresident purchaser of a boat of 5 net tons
120 of admeasurement or larger intends to remove the boat from this
121 state within 10 days after the date of purchase or when the boat
122 is repaired or altered, within 20 days after completion of the
123 repairs or alterations, the nonresident purchaser applies to the
124 selling dealer for a decal which authorizes 90 days after the
125 date of purchase for removal of the boat. The nonresident
126 purchaser of a qualifying boat may apply to the selling dealer
127 within 60 days after the date of purchase for an extension decal
128 that authorizes the boat to remain in this state for an
129 additional 90 days, but not more than a total of 180 days,
130 before the nonresident purchaser is required to pay the tax
131 imposed by this chapter. The department is authorized to issue
132 decals in advance to dealers. The number of decals issued in
133 advance to a dealer shall be consistent with the volume of the
134 dealer's past sales of boats which qualify under this sub-
135 subparagraph. The selling dealer or his or her agent shall mark
136 and affix the decals to qualifying boats in the manner
137 prescribed by the department, before delivery of the boat.

138 (I) The department is hereby authorized to charge dealers a
139 fee sufficient to recover the costs of decals issued, except the
140 extension decal shall cost \$425.

141 (II) The proceeds from the sale of decals will be deposited
142 into the administrative trust fund.

143 (III) Decals shall display information to identify the boat
144 as a qualifying boat under this sub-subparagraph, including, but
145 not limited to, the decal's date of expiration.

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146 (IV) The department is authorized to require dealers who
147 purchase decals to file reports with the department and may
148 prescribe all necessary records by rule. All such records are
149 subject to inspection by the department.

150 (V) Any dealer or his or her agent who issues a decal
151 falsely, fails to affix a decal, mismarks the expiration date of
152 a decal, or fails to properly account for decals will be
153 considered prima facie to have committed a fraudulent act to
154 evade the tax and will be liable for payment of the tax plus a
155 mandatory penalty of 200 percent of the tax, and shall be liable
156 for fine and punishment as provided by law for a conviction of a
157 misdemeanor of the first degree, as provided in s. 775.082 or s.
158 775.083.

159 (VI) Any nonresident purchaser of a boat who removes a
160 decal before permanently removing the boat from the state, or
161 defaces, changes, modifies, or alters a decal in a manner
162 affecting its expiration date before its expiration, or who
163 causes or allows the same to be done by another, will be
164 considered prima facie to have committed a fraudulent act to
165 evade the tax and will be liable for payment of the tax plus a
166 mandatory penalty of 200 percent of the tax, and shall be liable
167 for fine and punishment as provided by law for a conviction of a
168 misdemeanor of the first degree, as provided in s. 775.082 or s.
169 775.083.

170 (VII) The department is authorized to adopt rules necessary
171 to administer and enforce this subparagraph and to publish the
172 necessary forms and instructions.

173 (VIII) The department is hereby authorized to adopt
174 emergency rules pursuant to s. 120.54(4) to administer and

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175 enforce the provisions of this subparagraph.

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177 If the purchaser fails to remove the qualifying boat from this
178 state within the maximum 180 days after purchase or a
179 nonqualifying boat or an aircraft from this state within 10 days
180 after purchase or, when the boat or aircraft is repaired or
181 altered, within 20 days after completion of such repairs or
182 alterations, or permits the boat or aircraft to return to this
183 state within 6 months from the date of departure, except as
184 provided in s. 212.08(7) (fff), or if the purchaser fails to
185 furnish the department with any of the documentation required by
186 this subparagraph within the prescribed time period, the
187 purchaser shall be liable for use tax on the cost price of the
188 boat or aircraft and, in addition thereto, payment of a penalty
189 to the Department of Revenue equal to the tax payable. This
190 penalty shall be in lieu of the penalty imposed by s. 212.12(2).
191 The maximum 180-day period following the sale of a qualifying
192 boat tax-exempt to a nonresident may not be tolled for any
193 reason.

194 Section 2. Subsection (11) of section 212.08, Florida
195 Statutes, is amended to read:

196 212.08 Sales, rental, use, consumption, distribution, and
197 storage tax; specified exemptions.—The sale at retail, the
198 rental, the use, the consumption, the distribution, and the
199 storage to be used or consumed in this state of the following
200 are hereby specifically exempt from the tax imposed by this
201 chapter.

202 (11) PARTIAL EXEMPTION; FLYABLE AIRCRAFT.—

203 (a) The tax imposed on the sale by a manufacturer of

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204 flyable aircraft, who designs such aircraft, which sale may
205 include necessary equipment and modifications placed on such
206 flyable aircraft prior to delivery by the manufacturer, shall be
207 an amount equal to the sales tax which would be imposed on such
208 sale under the laws of the state in which the aircraft will be
209 domiciled.

210 (b) This partial exemption applies only if the purchaser is
211 a resident of another state who will not use the aircraft in
212 this state, or if the purchaser is a resident of another state
213 and uses the aircraft in interstate or foreign commerce, or if
214 the purchaser is a resident of a foreign country.

215 (c) The maximum tax collectible under this subsection may
216 not exceed 4 ~~6~~ percent of the sales price of such aircraft. No
217 Florida tax may be imposed on the sale of such aircraft if the
218 state in which the aircraft will be domiciled does not allow
219 Florida sales or use tax to be credited against its sales or use
220 tax. Furthermore, no tax may be imposed on the sale of such
221 aircraft if the state in which the aircraft will be domiciled
222 has enacted a sales and use tax exemption for flyable aircraft
223 or if the aircraft will be domiciled outside the United States.

224 (d) The purchaser shall execute a sworn affidavit attesting
225 that he or she is not a resident of this state and stating where
226 the aircraft will be domiciled. If the aircraft is subsequently
227 used in this state within 6 months of the time of purchase, in
228 violation of the intent of this subsection, the purchaser shall
229 be liable for payment of the full use tax imposed by this
230 chapter and shall be subject to the penalty imposed by s.
231 212.12(2), which penalty shall be mandatory. Notwithstanding the
232 provisions of this paragraph, the owner of an aircraft purchased

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233 pursuant to this subsection may permit the aircraft to be
234 returned to this state for repairs within 6 months after the
235 date of sale without the aircraft being in violation of the law
236 and without incurring liability for payment of tax or penalty on
237 the purchase price of the aircraft, so long as the aircraft is
238 removed from this state within 20 days after the completion of
239 the repairs and such removal can be proven by invoices for fuel,
240 tie-down, or hangar charges issued by out-of-state vendors or
241 suppliers or similar documentation.

242 Section 3. This act shall take effect July 1, 2019.