

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1762

SPONSOR: Fiscal Resource Committee and Senator Bronson

SUBJECT: Fill Dirt Exemption

DATE: April 19, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Keating</u>	<u>Wood</u>	<u>FR</u>	<u>Favorable/CS</u>
2.	<u>Schmeling</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This committee substitute 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.

This committee substitute amends section 212.06, Florida Statutes.

II. Present Situation:

Chapter 212, F.S., provides for the tax on sales, use, and other transactions. Section 212.05, F.S., provides that every person who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under ch. 212, F.S., or who stores for use or consumption any item or article of tangible personal property and who leases or rents such property is exercising a taxable privilege. Section 212.05(1)(a)1.a., F.S., provides for a 6 percent tax rate on the retail price of each item or article of tangible personal property when sold at retail in this state. Tangible personal property is defined in s. 212.02(19), F.S., to mean and include personal property which may be seen, weighed, measured, or touched or is in any manner perceptible to the senses.

Section 212.02(12), F.S., defines “person” to include any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit and also includes any political subdivision, municipality, state agency, bureau, or department and includes the plural as well as the singular number.

Section 212.06, F.S., provides for the 6 percent tax rate to be collectible from all dealers at the time of sale at retail, the use, the consumption, the distribution, and the storage for use or consumption in Florida of tangible personal property or services taxable under ch. 212, F.S. The term “dealer” is defined in s. 212.06(2)(a), F.S., to include every person who manufactures or

produces tangible personal property for sale at retail; for use, consumption, or distribution; or for storage to be used or consumed in this state.

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 or she sold it to another contractor.

Chapter 220, F.S., provides the income tax code for corporations, organizations, associations, and other artificial entities. Section 220.03(1)(b), F.S., defines "affiliated group of corporations" to mean two or more corporations which constitute an affiliated group of corporations as defined in s. 1504(a) of the Internal Revenue Code (26 U.S.C. s. 1504).

III. Effect of Proposed Changes:

The committee substitute amends s. 212.06, F.S., to include affiliated groups, as defined in s. 220.03(1)(b), F.S., in the provision that exempts a person from the sales and use tax when such person secures rock, fill dirt, or similar materials from a location he or she owns to be used on property he or she owns.

The committee substitute would take effect on January 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates that the loss in sales tax revenue would be insignificant as a result of this committee substitute.

Issue/Fund	General Revenue		Trust		Local		Total	
	1st Year \$	Recurring \$	1st Year \$	Recurring \$	1st Year \$	Recurring \$	1st Year \$	Recurring \$
Sales Tax Exemption: Fill Dirt	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)

* Insignificant

B. Private Sector Impact:

Affiliated groups who own the location where fill dirt, rock, shell, and other similar materials are taken from in order to be used on property owned by such affiliated group, would be exempt from sales and use tax on those materials.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
