

By Senator Lynn

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1 A bill to be entitled
2 An act relating to the Streamlined Sales and Use Tax
3 Agreement; amending s. 212.02, F.S.; revising
4 definitions; amending s. 212.03, F.S.; specifying
5 certain facilities that are exempt from the transient
6 rentals tax; amending s. 212.0306, F.S.; eliminating
7 the use of brackets in the calculation of sales and
8 use taxes; amending s. 212.031, F.S.; providing that
9 an exception relating to food and drink concessionaire
10 services from the tax on the license or rental fee for
11 the use of real property is limited to the space used
12 exclusively for selling and distributing food and
13 drinks; providing that the amendment to the exception
14 from the tax on the license or rental fee for the use
15 of real property is retroactive and remedial in
16 nature; amending s. 212.04, F.S.; eliminating the use
17 of brackets in the calculation of sales and use taxes;
18 limiting the application of an exemption from the
19 admissions tax to certain events sponsored by certain
20 educational institutions; amending s. 212.05, F.S.;
21 deleting a reference to mail-order sales to conform to
22 changes made by the act; deleting criteria
23 establishing circumstances under which taxes on the
24 lease or rental of a motor vehicle are due; revising
25 criteria establishing circumstances under which taxes
26 on the sale of a prepaid calling arrangement are due;
27 increasing the tax rate applicable to coin-operated
28 amusement machines; eliminating the use of brackets in
29 the calculation of sales and use taxes; amending s.

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30 212.0506, F.S.; eliminating the use of brackets in the
31 calculation of the tax on service warranties; amending
32 s. 212.054, F.S.; limiting the \$5,000 cap on
33 discretionary sales surtax to the sale of motor
34 vehicles, aircraft, boats, motor homes, manufactured
35 homes, modular homes, and mobile homes; specifying the
36 time at which changes in surtaxes may take effect;
37 providing criteria to determine the situs of certain
38 sales; requiring the Department of Revenue to notify
39 dealers of changes in surtax rates; providing for
40 databases to identify taxing jurisdictions; providing
41 criteria for holding purchasers harmless for failure
42 to pay the correct amount of tax; holding sellers
43 harmless for failing to collect a tax at a new rate
44 under certain circumstances; amending s. 212.055,
45 F.S.; deleting a provision providing for the emergency
46 fire rescue services and facilities surtax to be
47 initiated on a certain date after the approval of the
48 tax in a referendum; amending s. 212.06, F.S.;

49 deleting a reference to mail-order sales to conform to
50 changes made by the act; specifying procedures for the
51 sourcing of advertising and promotional direct mail;
52 specifying procedures for sourcing other direct mail;
53 providing definitions; providing that sales and use
54 taxes do not apply to transactions involving tangible
55 personal property that is exported from this state
56 under certain circumstances; amending s. 212.07, F.S.;

57 authorizing the Department of Revenue to use
58 electronic means to notify dealers of changes in the

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59 sales and use tax rates; authorizing the Department of
60 Revenue to create and maintain a taxability matrix;
61 providing immunity from liability for acts in reliance
62 on the taxability matrix; amending s. 212.08, F.S.;
63 revising exemptions from the sales and use tax for
64 food and medical products; limiting the exemption for
65 building materials used in the rehabilitation of real
66 property located in an enterprise zone to one
67 exemption per building; defining terms relating to the
68 exemption for building materials used in the
69 rehabilitation of real property located in an
70 enterprise zone; exempting certain charges relating to
71 railroad cars which are subject to the jurisdiction of
72 the United States Interstate Commerce Commission from
73 sales and use taxes; exempting certain payments
74 relating to a high-voltage bulk transmission facility
75 from sales and use taxes; deleting references to
76 "qualifying property" to conform to changes made by
77 the act; creating s. 212.094, F.S.; providing a
78 procedure for a purchaser to obtain a refund of tax
79 collected by a dealer; amending s. 212.12, F.S.;
80 authorizing the Department of Revenue to establish
81 collection allowances for certified service providers;
82 deleting a reference to mail-order sales to conform to
83 changes made by the act; providing for the computation
84 of taxes based on rounding instead of brackets;
85 amending s. 212.15, F.S.; deleting a cross-reference
86 relating to a provision providing for the state to
87 hold certain tax revenues for the benefit of another

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88 state, to conform to changes made by the act; amending
89 s. 212.17, F.S.; providing additional criteria for a
90 dealer to claim a credit or refund for taxes paid
91 relating to bad debts; amending s. 212.18, F.S.;
92 authorizing the Department of Revenue to waive the
93 dealer registration fee for applications submitted
94 through a multistate electronic registration system;
95 deleting a reference to mail-order sales to conform to
96 changes made by the act; amending s. 212.20, F.S.;
97 deleting procedures for refunds of tax paid on mail
98 order sales; creating s. 213.052, F.S.; requiring the
99 Department of Revenue to notify dealers of changes in
100 a sales and use tax rate; specifying dates on which
101 changes in sales and use tax rates may take effect;
102 creating s. 213.0521, F.S.; providing the effective
103 date for changes in the rate of state sales and use
104 taxes applying to services; creating s. 213.215, F.S.;
105 providing amnesty for uncollected or unpaid sales and
106 use taxes for sellers who register under the
107 Streamlined Sales and Use Tax Agreement; providing
108 exceptions to the amnesty; amending s. 213.256, F.S.;
109 defining terms; authorizing the Department of Revenue
110 to enter into agreements with other states to simplify
111 and facilitate compliance with sales tax laws;
112 creating s. 213.2562, F.S.; requiring the Department
113 of Revenue to review software submitted to the
114 governing board for certification as a certified
115 automated system; creating s. 213.2567, F.S.;
116 providing for the registration of sellers, the

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117 certification of a person as a certified service
118 provider, and the certification of a software program
119 as a certified automated system by the governing board
120 under the Streamlined Sales and Use Tax Agreement;
121 authorizing the Department of Revenue to adopt
122 emergency rules; requiring the President of the Senate
123 and Speaker of the House of Representatives to create
124 a joint select committee to study certain matters
125 related to state taxation; amending ss. 11.45,
126 196.012, 202.18, 203.01, 212.052, 212.081, 212.13,
127 218.245, 218.65, 288.1045, 288.11621, 288.1169,
128 551.102, and 790.0655, F.S.; conforming cross-
129 references to changes made by the act; repealing s.
130 212.0596, F.S., relating to provisions pertaining to
131 the taxation of mail-order sales; providing an
132 effective date.

133

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

135

136 Section 1. Section 212.02, Florida Statutes, is reordered
137 and amended to read:

138 212.02 Definitions.—The following terms and phrases when
139 used in this chapter have the meanings ascribed to them in this
140 section, except where the context clearly indicates a different
141 meaning. The term or terms:

142 (1) ~~The term~~ "Admissions" means and includes the net sum of
143 money after deduction of any federal taxes for admitting a
144 person or vehicle or persons to any place of amusement, sport,
145 or recreation or for the privilege of entering or staying in any

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146 place of amusement, sport, or recreation, including, but not
147 limited to, theaters, outdoor theaters, shows, exhibitions,
148 games, races, or any place where charge is made by way of sale
149 of tickets, gate charges, seat charges, box charges, season pass
150 charges, cover charges, greens fees, participation fees,
151 entrance fees, or other fees or receipts of anything of value
152 measured on an admission or entrance or length of stay or seat
153 box accommodations in any place where there is any exhibition,
154 amusement, sport, or recreation, and all dues and fees paid to
155 private clubs and membership clubs providing recreational or
156 physical fitness facilities, including, but not limited to,
157 golf, tennis, swimming, yachting, boating, athletic, exercise,
158 and fitness facilities, except physical fitness facilities owned
159 or operated by any hospital licensed under chapter 395.

160 (2) "Agricultural commodity" means horticultural and
161 aquacultural products, poultry and farm products, and livestock
162 and livestock products.

163 (4) "Bundled transaction" means the retail sale of two or
164 more products, except real property and services to real
165 property, in which the products are otherwise distinct and
166 identifiable and the products are sold for one non-itemized
167 price. A bundled transaction does not include the sale of any
168 products in which the sales price varies, or is negotiable,
169 based on the selection by the purchaser of the products included
170 in the transaction.

171 (a) As used in this subsection, the term:

172 1. "Distinct and identifiable products" does not include:

173 a. Packaging, such as containers, boxes, sacks, bags, and
174 bottles or other materials, such as wrapping, labels, tags, and

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175 instruction guides, which accompany the retail sale of the
176 products and are incidental or immaterial to the retail sale of
177 the products. Examples of packing that is incidental or
178 immaterial include grocery sacks, shoeboxes, dry cleaning
179 garment bags, and express delivery envelopes and boxes.

180 b. A product provided free of charge with the required
181 purchase of another product. A product is provided free of
182 charge if the sales price of the product purchased does not vary
183 depending on the inclusion of the product provided free of
184 charge.

185 c. An item provided free of charge.

186 2. "One non-itemized price" does not include a price that
187 is separately identified by product on binding sales or other
188 supporting sales-related documentation made available to the
189 customer in paper or electronic form, including, but not limited
190 to, an invoice, bill of sale, receipt, contract, service
191 agreement, lease agreement, periodic notice of rates and
192 services, rate card, or price list.

193 3. "De minimis" means that the dealer's purchase price or
194 sales price of the taxable products is 10 percent or less of the
195 total purchase price or sales price of the bundled products.

196 a. Dealers must use the purchase price or sales price of
197 the products to determine if the taxable products are de
198 minimis. Dealers may not use a combination of the purchase price
199 and sales price of the products to determine if the taxable
200 products are de minimis.

201 b. Dealers shall use the full term of a service contract to
202 determine if the taxable products are de minimis.

203 (b) A transaction that otherwise satisfies the definition

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204 of a bundled transaction, as defined in this subsection, is not
205 a bundled transaction if it is:

206 1. The retail sale of tangible personal property and a
207 service in which the tangible personal property is essential to
208 the use of the service, is provided exclusively in connection
209 with the service, and the true object of the transaction is the
210 service;

211 2. The retail sale of services in which one service is
212 provided which is essential to the use or receipt of a second
213 service and the first service is provided exclusively in
214 connection with the second service and the true object of the
215 transaction is the second service;

216 3. A transaction that includes taxable products and
217 nontaxable products and the purchase price or sales price of the
218 taxable products is de minimis; or

219 4. The retail sale of exempt tangible personal property and
220 taxable personal property in which:

221 a. The transaction includes food and food ingredients,
222 drugs, durable medical equipment, mobility-enhancing equipment,
223 over-the-counter drugs, prosthetic devices, or medical supplies;
224 and

225 b. The dealer's purchase price or sales price of the
226 taxable tangible personal property is 50 percent or less of the
227 total purchase price or sales price of the bundled tangible
228 personal property. Dealers may not use a combination of the
229 purchase price and sales price of the tangible personal property
230 to make the determination required in this paragraph.

231 (5)-(2) "Business" means any activity engaged in by any
232 person, or caused to be engaged in by him or her, with the

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233 object of private or public gain, benefit, or advantage, either
234 direct or indirect. Except for the sales of any aircraft, boat,
235 mobile home, or motor vehicle, the term "business" shall not be
236 construed in this chapter to include occasional or isolated
237 sales or transactions involving tangible personal property or
238 services by a person who does not hold himself or herself out as
239 engaged in business or sales of unclaimed tangible personal
240 property under s. 717.122, but includes other charges for the
241 sale or rental of tangible personal property, sales of services
242 taxable under this chapter, sales of or charges of admission,
243 communication services, all rentals and leases of living
244 quarters, other than low-rent housing operated under chapter
245 421, sleeping or housekeeping accommodations in hotels,
246 apartment houses, roominghouses, tourist or trailer camps, and
247 all rentals of or licenses in real property, other than low-rent
248 housing operated under chapter 421, all leases or rentals of or
249 licenses in parking lots or garages for motor vehicles, docking
250 or storage spaces for boats in boat docks or marinas as defined
251 in this chapter and made subject to a tax imposed by this
252 chapter. The term "business" shall not be construed in this
253 chapter to include the leasing, subleasing, or licensing of real
254 property by one corporation to another if all of the stock of
255 both such corporations is owned, directly or through one or more
256 wholly owned subsidiaries, by a common parent corporation; the
257 property was in use prior to July 1, 1989, title to the property
258 was transferred after July 1, 1988, and before July 1, 1989,
259 between members of an affiliated group, as defined in s. 1504(a)
260 of the Internal Revenue Code of 1986, which group included both
261 such corporations and there is no substantial change in the use

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262 of the property following the transfer of title; the leasing,
263 subleasing, or licensing of the property was required by an
264 unrelated lender as a condition of providing financing to one or
265 more members of the affiliated group; and the corporation to
266 which the property is leased, subleased, or licensed had sales
267 subject to the tax imposed by this chapter of not less than \$667
268 million during the most recent 12-month period ended June 30.
269 Any tax on such sales, charges, rentals, admissions, or other
270 transactions made subject to the tax imposed by this chapter
271 shall be collected by the state, county, municipality, any
272 political subdivision, agency, bureau, or department, or other
273 state or local governmental instrumentality in the same manner
274 as other dealers, unless specifically exempted by this chapter.

275 (6) "Certified service provider" has the same meaning as
276 provided in s. 213.256.

277 (7) ~~(3)~~ The terms "Cigarettes," "tobacco," or "tobacco
278 products" referred to in this chapter include all such products
279 as are defined or may be hereafter defined by the laws of the
280 state.

281 (9) "Computer" means an electronic device that accepts
282 information in digital or similar form and manipulates such
283 information for a result based on a sequence of instructions.

284 (10) "Computer software" means a set of coded instructions
285 designed to cause a computer or automatic data processing
286 equipment to perform a task.

287 (11) ~~(4)~~ "Cost price" means the actual cost of articles of
288 tangible personal property without any deductions whatsoever,
289 including, but not limited to, deductions for therefrom on
290 account of the cost of materials used, labor or service costs,

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291 transportation charges, or other any expenses ~~whatsoever~~.

292 (12) "Delivery charges" means charges by the dealer of
293 personal property or services for preparation and delivery to a
294 location designated by the purchaser of such property or
295 services, including, but not limited to, transportation,
296 shipping, postage, handling, crating, and packing. The term does
297 not include the charges for delivery of direct mail if the
298 charges are separately stated on an invoice or similar billing
299 document given to the purchaser. If a shipment includes exempt
300 property and taxable property, the dealer shall tax only the
301 percentage of the delivery charge allocated to the taxable
302 property. The dealer may allocate the delivery charge by using:

303 (a) A percentage based on the total sales price of the
304 taxable property compared to the sales price of all property in
305 the shipment; or

306 (b) A percentage based on the total weight of the taxable
307 property compared to the total weight of all property in the
308 shipment.

309 (13)-(5) The term "Department" means the Department of
310 Revenue.

311 (17)-(6) "Enterprise zone" means an area of the state
312 designated pursuant to s. 290.0065. This subsection expires on
313 the date specified in s. 290.016 for the expiration of the
314 Florida Enterprise Zone Act.

315 (18)-(7) "Factory-built building" means a structure
316 manufactured in a manufacturing facility for installation or
317 erection as a finished building ~~and; "factory-built building"~~
318 includes, but is not limited to, residential, commercial,
319 institutional, storage, and industrial structures.

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320 (22)~~(8)~~ "In this state" or "in the state" means within the
321 state boundaries of Florida as defined in s. 1, Art. II of the
322 State Constitution and includes all territory within these
323 limits owned by or ceded to the United States.

324 (23)~~(9)~~ ~~The term~~ "Intoxicating beverages" or "alcoholic
325 beverages" referred to in this chapter includes all such
326 beverages as are so defined or may be hereafter defined by the
327 laws of the state.

328 (24) (a)~~(10)~~ "Lease," "let," or "rental" means the leasing
329 or renting of living quarters or sleeping or housekeeping
330 accommodations in hotels, apartment houses, roominghouses,
331 tourist or trailer camps and real property, the same being
332 defined as follows:

333 1.(a) Every building or other structure kept, used,
334 maintained, or advertised as, or held out to the public to be, a
335 place where sleeping accommodations are supplied for pay to
336 transient or permanent guests or tenants, in which 10 or more
337 rooms are furnished for the accommodation of such guests, and
338 having one or more dining rooms or cafes where meals or lunches
339 are served to such transient or permanent guests; such sleeping
340 accommodations and dining rooms or cafes being conducted in the
341 same building or buildings in connection therewith, shall, for
342 the purpose of this chapter, be deemed a hotel.

343 2.(b) Any building, or part thereof, where separate
344 accommodations for two or more families living independently of
345 each other are supplied to transient or permanent guests or
346 tenants shall for the purpose of this chapter be deemed an
347 apartment house.

348 3.(c) Every house, boat, vehicle, motor court, trailer

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349 court, or other structure or any place or location kept, used,
350 maintained, or advertised as, or held out to the public to be, a
351 place where living quarters or sleeping or housekeeping
352 accommodations are supplied for pay to transient or permanent
353 guests or tenants, whether in one or adjoining buildings, shall
354 for the purpose of this chapter be deemed a roominghouse.

355 4.~~(d)~~ In all hotels, apartment houses, and roominghouses
356 within the meaning of this chapter, the parlor, dining room,
357 sleeping porches, kitchen, office, and sample rooms shall be
358 construed to mean "rooms."

359 (b)~~(e)~~ The term or terms:

360 1. A "Tourist camp" means ~~is~~ a place where two or more
361 tents, tent houses, or camp cottages are located and offered by
362 a person or municipality for sleeping or eating accommodations,
363 most generally to the transient public for either a direct money
364 consideration or an indirect benefit to the lessor or owner in
365 connection with a related business.

366 2.~~(f)~~ A "Trailer camp," "mobile home park," or
367 "recreational vehicle park" means ~~is~~ a place where space is
368 offered, with or without service facilities, by any persons or
369 municipality to the public for the parking and accommodation of
370 two or more automobile trailers, mobile homes, or recreational
371 vehicles that ~~which~~ are used for lodging, for either a direct
372 money consideration or an indirect benefit to the lessor or
373 owner in connection with a related business, such space being
374 hereby defined as living quarters, and the rental price thereof
375 shall include all service charges paid to the lessor.

376 ~~(g) "Lease," "let," or "rental" also means the leasing or~~
377 ~~rental of tangible personal property and the possession or use~~

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378 ~~thereof by the lessee or rentee for a consideration, without~~
379 ~~transfer of the title of such property, except as expressly~~
380 ~~provided to the contrary herein. The term "Lease," "let," or~~
381 ~~"rental" does not mean hourly, daily, or mileage charges, to the~~
382 ~~extent that such charges are subject to the jurisdiction of the~~
383 ~~United States Interstate Commerce Commission, when such charges~~
384 ~~are paid by reason of the presence of railroad cars owned by~~
385 ~~another on the tracks of the taxpayer, or charges made pursuant~~
386 ~~to car service agreements. The term "Lease," "let," "rental," or~~
387 ~~"license" does not include payments made to an owner of high-~~
388 ~~voltage bulk transmission facilities in connection with the~~
389 ~~possession or control of such facilities by a regional~~
390 ~~transmission organization, independent system operator, or~~
391 ~~similar entity under the jurisdiction of the Federal Energy~~
392 ~~Regulatory Commission. However, where two taxpayers, in~~
393 ~~connection with the interchange of facilities, rent or lease~~
394 ~~property, each to the other, for use in providing or furnishing~~
395 ~~any of the services mentioned in s. 166.231, the term "lease or~~
396 ~~rental" means only the net amount of rental involved.~~

397 3.~~(h)~~ "Real property" means the surface land, improvements
398 thereto, and fixtures, and is synonymous with "realty" and "real
399 estate."

400 4.~~(i)~~ "License," as used in this chapter with reference to
401 the use of real property, means the granting of a privilege to
402 use or occupy a building or a parcel of real property for any
403 purpose.

404 (c)~~(j)~~ Privilege, franchise, or concession fees, or fees
405 for a license to do business, paid to an airport are not
406 payments for leasing, letting, renting, or granting a license

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407 for the use of real property.

408 (d) Any transfer of possession or control of tangible
409 personal property for a fixed or indeterminate term for
410 consideration. A clause for a future option to purchase or to
411 extend an agreement does not preclude an agreement from being a
412 lease or rental. This definition shall be used for purposes of
413 the sales and use tax regardless of whether a transaction is
414 characterized as a lease or rental under generally accepted
415 accounting principles, the Internal Revenue Code, the Uniform
416 Commercial Code, or any other provisions of federal, state, or
417 local law. These terms include agreements covering motor
418 vehicles and trailers if the amount of consideration may be
419 increased or decreased by reference to the amount realized upon
420 sale or disposition of the property as provided in 26 U.S.C. s.
421 7701(h) (1). These terms do not include:

422 1. A transfer of possession or control of property under a
423 security agreement or deferred payment plan that requires the
424 transfer of title upon completion of the required payments;

425 2. A transfer of possession or control of property under an
426 agreement that requires the transfer of title upon completion of
427 required payments and payment of an option price that does not
428 exceed the greater of \$100 or 1 percent of the total required
429 payments; or

430 3. The provision of tangible personal property along with
431 an operator for a fixed or indeterminate period of time. As a
432 condition of this exclusion, the operator must be necessary for
433 the equipment to perform as designed. For the purpose of this
434 subparagraph, an operator must do more than maintain, inspect,
435 or set up the tangible personal property.

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436 (26)~~(11)~~ "Motor fuel" means and includes what is commonly
437 known and sold as gasoline and fuels containing a mixture of
438 gasoline and other products.

439 (27)~~(12)~~ "Person" includes any individual, firm,
440 copartnership, joint adventure, association, corporation,
441 estate, trust, business trust, receiver, syndicate, or other
442 group or combination acting as a unit and also includes any
443 political subdivision, municipality, state agency, bureau, or
444 department and includes the plural as well as the singular
445 number.

446 (33)~~(13)~~ "Retailer" means and includes every person engaged
447 in the business of making sales at retail or for distribution,
448 or use, or consumption, or storage to be used or consumed in
449 this state.

450 (34)~~(14)~~(a) "Retail sale" or a "sale at retail" means a
451 sale to a consumer or to any person for any purpose other than
452 for resale in the form of tangible personal property or services
453 taxable under this chapter, and includes all such transactions
454 that may be made in lieu of retail sales or sales at retail. A
455 sale for resale includes a sale of qualifying property. As used
456 in this paragraph, the term "qualifying property" means tangible
457 personal property, other than electricity, which is used or
458 consumed by a government contractor in the performance of a
459 qualifying contract as defined in s. 212.08(17)(c), to the
460 extent that the cost of the property is allocated or charged as
461 a direct item of cost to such contract, title to which property
462 vests in or passes to the government under the contract. The
463 term "government contractor" includes prime contractors and
464 subcontractors. As used in this paragraph, a cost is a "direct

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465 item of cost" if it is a "direct cost" as defined in 48 C.F.R.
466 s. 9904.418-30(a)(2), or similar successor provisions, including
467 costs identified specifically with a particular contract.

468 (b) ~~The terms~~ "Retail sales," "sales at retail," "use,"
469 "storage," and "consumption" include the sale, use, storage, or
470 consumption of all tangible advertising materials imported or
471 caused to be imported into this state. Tangible advertising
472 material includes displays, display containers, brochures,
473 catalogs, price lists, point-of-sale advertising, and technical
474 manuals or any tangible personal property that ~~which~~ does not
475 accompany the product to the ultimate consumer.

476 (c) "Retail sales," "sale at retail," "use," "storage," and
477 "consumption" do not include materials, containers, labels,
478 sacks, bags, or similar items intended to accompany a product
479 sold to a customer without which delivery of the product would
480 be impracticable because of the character of the contents and be
481 used one time only for packaging tangible personal property for
482 sale or for the convenience of the customer or for packaging in
483 the process of providing a service taxable under this chapter.
484 When a separate charge for packaging materials is made, the
485 charge shall be considered part of the sales price or rental
486 charge for purposes of determining the applicability of tax. The
487 terms do not include the sale, use, storage, or consumption of
488 industrial materials, including chemicals and fuels except as
489 provided herein, for future processing, manufacture, or
490 conversion into articles of tangible personal property for
491 resale when such industrial materials, including chemicals and
492 fuels except as provided herein, become a component or
493 ingredient of the finished product. However, the terms include

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494 the sale, use, storage, or consumption of tangible personal
495 property, including machinery and equipment or parts thereof,
496 purchased electricity, and fuels used to power machinery, when
497 such items are used and dissipated in fabricating, converting,
498 or processing tangible personal property for sale, even though
499 they may become ingredients or components of the tangible
500 personal property for sale through accident, wear, tear,
501 erosion, corrosion, or similar means. The terms do not include
502 the sale of materials to a registered repair facility for use in
503 repairing a motor vehicle, airplane, or boat, when such
504 materials are incorporated into and sold as part of the repair.
505 Such a sale shall be deemed a purchase for resale by the repair
506 facility, even though every material is not separately stated or
507 separately priced on the repair invoice.

508 (d) "Gross sales" means the sum total of all sales of
509 tangible personal property as defined herein, without any
510 deduction whatsoever of any kind or character, except as
511 provided in this chapter.

512 ~~(e) The term "retail sale" includes a mail order sale, as~~
513 ~~defined in s. 212.0596(1).~~

514 (35) ~~(15)~~ "Sale" means and includes:

515 (a) Any transfer of title or possession, or both, exchange,
516 barter, license, lease, or rental, conditional or otherwise, in
517 any manner or by any means whatsoever, of tangible personal
518 property for a consideration.

519 (b) The rental of living quarters or sleeping or
520 housekeeping accommodations in hotels, apartment houses or
521 roominghouses, or tourist or trailer camps, as ~~hereinafter~~
522 defined in this chapter.

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523 (c) The producing, fabricating, processing, printing, or
524 imprinting of tangible personal property for a consideration for
525 consumers who furnish either directly or indirectly the
526 materials used in the producing, fabricating, processing,
527 printing, or imprinting.

528 (d) The furnishing, preparing, or serving for a
529 consideration of any tangible personal property for consumption
530 on or off the premises of the person furnishing, preparing, or
531 serving such tangible personal property which includes the sale
532 of meals or prepared food by an employer to his or her
533 employees.

534 (e) A transaction whereby the possession of property is
535 transferred but the seller retains title as security for the
536 payment of the price.

537 (36) (a) ~~(16)~~ "Sales price" applies to the amount subject to
538 the tax imposed by this chapter and means the total
539 consideration, including cash, credit, property, and services,
540 for which tangible personal property or services are sold,
541 leased, or rented, valued in money, whether received in money or
542 otherwise, without any deduction for the following:

- 543 1. The dealer's cost of the property sold;
544 2. The cost of materials used, labor or service cost,
545 interest, losses, all costs of transportation to the dealer, all
546 taxes imposed on the dealer, and any other expense of the
547 dealer;
548 3. Charges by the dealer for any services necessary to
549 complete the sale, other than delivery and installation charges;
550 4. Delivery charges;
551 5. Installation charges; or

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552 6. Charges by a dealer for a bundled transaction, which
553 includes a sale or use of a product that is taxable under this
554 chapter, unless otherwise provided in this chapter.

555 (b) "Sales price" does not include:

556 1. Trade-ins allowed and taken at the time of sale if the
557 amount is separately stated on the invoice, bill of sale, or
558 similar document given to the purchaser;

559 2. Discounts, including cash, term, or coupons, which are
560 not reimbursed by a third party, are allowed by a dealer, and
561 are taken by a purchaser at the time of sale;

562 3. Interest, financing, and carrying charges from credit
563 extended on the sale of personal property or services, if the
564 amount is separately stated on the invoice, bill of sale, or
565 similar document given to the purchaser;

566 4. Any taxes legally imposed directly on the consumer which
567 are separately stated on the invoice, bill of sale, or similar
568 document given to the purchaser; or means the total amount paid
569 for tangible personal property, including any services that are
570 a part of the sale, valued in money, whether paid in money or
571 otherwise, and includes any amount for which credit is given to
572 the purchaser by the seller, without any deduction therefrom on
573 account of the cost of the property sold, the cost of materials
574 used, labor or service cost, interest charged, losses, or any
575 other expense whatsoever. "Sales price" also includes the
576 consideration for a transaction which requires both labor and
577 material to alter, remodel, maintain, adjust, or repair tangible
578 personal property. Trade-ins or discounts allowed and taken at
579 the time of sale shall not be included within the purview of
580 this subsection. "Sales price" also includes the full face value

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581 ~~of any coupon used by a purchaser to reduce the price paid to a~~
582 ~~retailer for an item of tangible personal property; where the~~
583 ~~retailer will be reimbursed for such coupon, in whole or in~~
584 ~~part, by the manufacturer of the item of tangible personal~~
585 ~~property; or whenever it is not practicable for the retailer to~~
586 ~~determine, at the time of sale, the extent to which~~
587 ~~reimbursement for the coupon will be made. The term "sales~~
588 ~~price" does not include federal excise taxes imposed upon the~~
589 ~~retailer on the sale of tangible personal property. The term~~
590 ~~"sales price" does include federal manufacturers' excise taxes,~~
591 ~~even if the federal tax is listed as a separate item on the~~
592 ~~invoice. To the extent required by federal law, the term "sales~~
593 ~~price" does not include~~

594 5. Charges for Internet access services ~~that~~ ~~which~~ are sold
595 separately or that are not itemized on the customer's bill, but
596 that ~~which~~ can be reasonably identified from the selling
597 dealer's books and records kept in the regular course of
598 business. The dealer may support the allocation of charges with
599 books and records kept in the regular course of business
600 covering the dealer's entire service area, including territories
601 outside this state.

602 (14)~~(17)~~ "Diesel fuel" means any liquid product or, gas
603 product, or any combination thereof, which is used in an
604 internal combustion engine or motor to propel any form of
605 vehicle, machine, or mechanical contrivance. The ~~This~~ term
606 includes, but is not limited to, all forms of fuel commonly or
607 commercially known or sold as diesel fuel or kerosene. However,
608 the term ~~"diesel fuel"~~ does not include butane gas, propane gas,
609 or any other form of liquefied petroleum gas or compressed

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610 natural gas.

611 (15) "Direct mail" means printed material delivered or
612 distributed by the United States Postal Service or other
613 delivery service to a mass audience or to addressees on a
614 mailing list provided by the purchaser or at the direction of
615 the purchaser when the cost of the items is not billed directly
616 to the recipients. The term includes tangible personal property
617 supplied directly or indirectly by the purchaser to the direct-
618 mail dealer for inclusion in the package containing the printed
619 material. The term does not include multiple items of printed
620 material delivered to a single address.

621 (16) "Electronic" means relating to technology having
622 electrical, digital, magnetic, wireless, optical,
623 electromagnetic, or similar capabilities.

624 (41)~~(18)~~ "Storage" means and includes any keeping or
625 retention in this state of tangible personal property for use or
626 consumption in this state or for any purpose other than sale at
627 retail in the regular course of business.

628 (42)~~(19)~~ "Tangible personal property" means and includes
629 personal property that ~~which~~ may be seen, weighed, measured, or
630 touched or is in any manner perceptible to the senses, including
631 electric power or energy, water, gas, steam, prewritten computer
632 software, boats, motor vehicles and mobile homes as defined in
633 s. 320.01(1) and (2), aircraft as defined in s. 330.27, and all
634 other types of vehicles. The term "tangible personal property"
635 does not include stocks, bonds, notes, insurance, or other
636 obligations or securities or pari-mutuel tickets sold or issued
637 under the racing laws of the state.

638 (43)~~(20)~~ "Use" means and includes the exercise of any right

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639 or power over tangible personal property incident to the
640 ownership thereof, or interest therein, except that it does not
641 include the sale at retail of that property in the regular
642 course of business. The term "use" does not include:

643 (a) The loan of an automobile by a motor vehicle dealer to
644 a high school for use in its driver education and safety
645 program. ~~The term "use" does not include; or~~

646 (b) A contractor's use of "qualifying property" as defined
647 by paragraph (32) (a) ~~paragraph (14) (a)~~.

648 ~~(44)-(21)~~ The term "Use tax" referred to in this chapter
649 includes the use, the consumption, the distribution, and the
650 storage as herein defined.

651 (45) "Voluntary seller" or "volunteer seller" means a
652 dealer who is not required to register in this state to collect
653 the tax imposed by this chapter.

654 ~~(40)-(22)~~ "Spaceport activities" means activities directed
655 or sponsored by Space Florida on spaceport territory pursuant to
656 its powers and responsibilities under the Space Florida Act.

657 ~~(39)-(23)~~ "Space flight" means any flight designed for
658 suborbital, orbital, or interplanetary travel of a space
659 vehicle, satellite, or station of any kind.

660 ~~(8)-(24)~~ "Coin-operated amusement machine" means any machine
661 operated by coin, slug, token, coupon, or similar device for the
662 purposes of entertainment or amusement. The term includes, but
663 is not limited to, coin-operated pinball machines, music
664 machines, juke boxes, mechanical games, video games, arcade
665 games, billiard tables, moving picture viewers, shooting
666 galleries, and all other similar amusement devices.

667 ~~(37)-(25)~~ "Sea trial" means a voyage for the purpose of

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668 testing repair or modification work, which is in length and
669 scope reasonably necessary to test repairs or modifications, or
670 a voyage for the purpose of ascertaining the seaworthiness of a
671 vessel. If the sea trial is to test repair or modification work,
672 the owner or repair facility shall certify, on ~~in~~ a form
673 required by the department, the ~~what~~ repairs that have been
674 tested. The owner and the repair facility may also be required
675 to certify that the length and scope of the voyage were
676 reasonably necessary to test the repairs or modifications.

677 (38)~~(26)~~ "Solar energy system" means the equipment and
678 requisite hardware that provide and are used for collecting,
679 transferring, converting, storing, or using incident solar
680 energy for water heating, space heating, cooling, or other
681 applications that would otherwise require the use of a
682 conventional source of energy such as petroleum products,
683 natural gas, manufactured gas, or electricity.

684 (27) "Agricultural commodity" means horticultural,
685 aquacultural, poultry and farm products, and livestock and
686 livestock products.

687 (19)~~(28)~~ "Farmer" means a person who is directly engaged in
688 the business of producing crops, livestock, or other
689 agricultural commodities. The term includes, but is not limited
690 to, horse breeders, nurserymen, dairy farmers, poultry farmers,
691 cattle ranchers, apiarists, and persons raising fish.

692 (25)~~(29)~~ "Livestock" includes all animals of the equine,
693 bovine, or swine class, including goats, sheep, mules, horses,
694 hogs, cattle, ostriches, and other grazing animals raised for
695 commercial purposes. The term "livestock" shall also include
696 fish raised for commercial purposes.

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697 ~~(28)~~ ~~(30)~~ "Power farm equipment" means moving or stationary
698 equipment that contains within itself the means for its own
699 propulsion or power and moving or stationary equipment that is
700 dependent upon an external power source to perform its
701 functions.

702 (29) "Prewritten computer software" means computer
703 software, including prewritten upgrades, which is not designed
704 and developed by the author or other creator to the
705 specifications of a specific purchaser. The combining of two or
706 more prewritten computer software programs or prewritten
707 portions of such programs does not cause the combination to be
708 other than prewritten computer software. Prewritten computer
709 software includes software designed and developed by the author
710 or other creator to the specifications of a specific purchaser
711 when such software is sold to a person other than the specific
712 purchaser. Where a person modifies or enhances computer software
713 that he or she did not author or create, the person shall be
714 deemed to be the author or creator only of his or her
715 modifications or enhancements. Prewritten computer software or a
716 prewritten portion of such software that is modified or enhanced
717 to any degree, if such modification or enhancement is designed
718 and developed to the specifications of a specific purchaser,
719 remains prewritten computer software. However, prewritten
720 computer software does not include software that has been
721 modified or enhanced for a particular purchaser if the charge
722 for the enhancement is reasonable and separately stated on the
723 invoice or other statement of price given to the purchaser.

724 (30) "Product" means tangible personal property, a digital
725 good, or a service. The term does not include real property and

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726 services to real property.

727 (31) "Purchase price" means the measure subject to use tax
728 and has the same meaning as sales price.

729 (20)~~(31)~~ "Forest" means the land stocked by trees of any
730 size used in the production of forest products, or formerly
731 having such tree cover, and not currently developed for
732 nonforest use.

733 (3)~~(32)~~ "Agricultural production" means the production of
734 plants and animals useful to humans, including the preparation,
735 planting, cultivating, or harvesting of these products or any
736 other practices necessary to accomplish production through the
737 harvest phase, which ~~and~~ includes aquaculture, horticulture,
738 floriculture, viticulture, forestry, dairy, livestock, poultry,
739 bees, and ~~any and~~ all other forms of farm products and farm
740 production.

741 (32)~~(33)~~ "Qualified aircraft" means any aircraft that has
742 ~~having~~ a maximum certified takeoff weight of less than 10,000
743 pounds and equipped with twin turboprop engines that meet Stage
744 IV noise requirements that is used by a business that operates
745 ~~operating~~ as an on-demand air carrier under Federal Aviation
746 Administration Regulation Title 14, chapter I, part 135, Code of
747 Federal Regulations, that owns or leases and operates a fleet of
748 at least 25 ~~of~~ such aircraft in this state.

749 (21)~~(34)~~ "Fractional aircraft ownership program" means a
750 program that meets the requirements of 14 C.F.R. part 91,
751 subpart K, relating to fractional ownership operations, except
752 that the program must include a minimum of 25 aircraft owned or
753 leased by the program manager and used in the program.

754 Section 2. Paragraph (c) of subsection (7) of section

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755 212.03, Florida Statutes, is amended to read:

756 212.03 Transient rentals tax; rate, procedure, enforcement,
757 exemptions.—

758 (7)

759 (c) The rental of facilities in a trailer camp, mobile home
760 park, or recreational vehicle park facilities, as defined in s.
761 212.02(24) ~~s. 212.02(10)(f)~~, which are intended primarily for
762 rental as a principal or permanent place of residence is exempt
763 from the tax imposed by this chapter. The rental of such
764 facilities that primarily serve transient guests is not exempt
765 by this subsection. In the application of this law, or in making
766 any determination against the exemption, the department shall
767 consider the facility as primarily serving transient guests
768 unless the facility owner makes a verified declaration on a form
769 prescribed by the department that more than half of the total
770 rental units available are occupied by tenants who have a
771 continuous residence in excess of 3 months. The owner of a
772 facility declared to be exempt by this paragraph must make a
773 determination of the taxable status of the facility at the end
774 of the owner's accounting year using any consecutive 3-month
775 period, at least one month of which is in the accounting year.
776 The owner must use a selected consecutive 3-month period during
777 each annual redetermination. In the event that an exempt
778 facility no longer qualifies for exemption by this paragraph,
779 the owner must notify the department on a form prescribed by the
780 department by the 20th day of the first month of the owner's
781 next succeeding accounting year that the facility no longer
782 qualifies for such exemption. The tax levied by this section
783 shall apply to the rental of facilities that no longer qualify

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784 for exemption under this paragraph beginning the first day of
785 the owner's next succeeding accounting year. The provisions of
786 this paragraph do not apply to mobile home lots regulated under
787 chapter 723.

788 Section 3. Subsection (6) of section 212.0306, Florida
789 Statutes, is amended to read:

790 212.0306 Local option food and beverage tax; procedure for
791 levying; authorized uses; administration.—

792 (6) Any county levying a tax authorized by this section
793 must locally administer the tax using the powers and duties
794 enumerated for local administration of the tourist development
795 tax by s. 125.0104, 1992 Supplement to the Florida Statutes
796 1991. ~~The county's ordinance shall also provide for brackets~~
797 ~~applicable to taxable transactions.~~

798 Section 4. Subsection (1) of section 212.031, Florida
799 Statutes, is amended to read:

800 212.031 Tax on rental or license fee for use of real
801 property.—

802 (1) (a) It is declared to be the legislative intent that
803 every person is exercising a taxable privilege who engages in
804 the business of renting, leasing, letting, or granting a license
805 for the use of any real property unless such property is:

806 1. Assessed as agricultural property under s. 193.461.

807 2. Used exclusively as dwelling units.

808 3. Property subject to tax on parking, docking, or storage
809 spaces under s. 212.03(6).

810 4. Recreational property or the common elements of a
811 condominium when subject to a lease between the developer or
812 owner thereof and the condominium association in its own right

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813 or as agent for the owners of individual condominium units or
814 the owners of individual condominium units. However, only the
815 lease payments on such property are ~~shall be~~ exempt from the tax
816 imposed by this chapter, and any other use made by the owner or
817 the condominium association is ~~shall be~~ fully taxable under this
818 chapter.

819 5. A public or private street or right-of-way and poles,
820 conduits, fixtures, and similar improvements located on such
821 streets or rights-of-way, occupied or used by a utility or
822 provider of communications services, as defined by s. 202.11,
823 for utility or communications or television purposes. For
824 purposes of this subparagraph, the term "utility" means any
825 person providing utility services as defined in s. 203.012. This
826 exception also applies to property, wherever located, on which
827 the following are placed: towers, antennas, cables, accessory
828 structures, or equipment, not including switching equipment,
829 used in the provision of mobile communications services as
830 defined in s. 202.11. For purposes of this chapter, towers used
831 in the provision of mobile communications services, as defined
832 in s. 202.11, are considered to be fixtures.

833 6. A public street or road that ~~which~~ is used for
834 transportation purposes.

835 7. Property used at an airport exclusively for the purpose
836 of aircraft landing or aircraft taxiing or property used by an
837 airline for the purpose of loading or unloading passengers or
838 property onto or from aircraft or for fueling aircraft.

839 8.a. Property used at a port authority, as defined in s.
840 315.02(2), exclusively for the purpose of oceangoing vessels or
841 tugs docking, or such vessels mooring on property used by a port

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842 authority for the purpose of loading or unloading passengers or
843 cargo onto or from such a vessel, or property used at a port
844 authority for fueling such vessels, or to the extent that the
845 amount paid for the use of any property at the port is based on
846 the charge for the amount of tonnage actually imported or
847 exported through the port by a tenant.

848 b. The amount charged for the use of any property at the
849 port in excess of the amount charged for tonnage actually
850 imported or exported remains ~~shall remain~~ subject to tax except
851 as provided in sub-subparagraph a.

852 9. Property used as an integral part of the performance of
853 qualified production services. As used in this subparagraph, the
854 term "qualified production services" means any activity or
855 service performed directly in connection with the production of
856 a qualified motion picture, as defined in s. 212.06(1)(b), and
857 includes:

858 a. Photography, sound and recording, casting, location
859 managing and scouting, shooting, creation of special and optical
860 effects, animation, adaptation (language, media, electronic, or
861 otherwise), technological modifications, computer graphics, set
862 and stage support (such as electricians, lighting designers and
863 operators, greensmen, prop managers and assistants, and grips),
864 wardrobe (design, preparation, and management), hair and makeup
865 (design, production, and application), performing (such as
866 acting, dancing, and playing), designing and executing stunts,
867 coaching, consulting, writing, scoring, composing,
868 choreographing, script supervising, directing, producing,
869 transmitting dailies, dubbing, mixing, editing, cutting,
870 looping, printing, processing, duplicating, storing, and

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871 distributing;

872 b. The design, planning, engineering, construction,
873 alteration, repair, and maintenance of real or personal property
874 including stages, sets, props, models, paintings, and facilities
875 principally required for the performance of those services
876 listed in sub-subparagraph a.; and

877 c. Property management services directly related to
878 property used in connection with the services described in sub-
879 subparagraphs a. and b.

880

881 This exemption inures ~~will inure~~ to the taxpayer upon
882 presentation of the certificate of exemption issued to the
883 taxpayer under the provisions of s. 288.1258.

884 10. Leased, subleased, licensed, or rented to a person
885 providing food and drink concessionaire services within the
886 premises of a convention hall, exhibition hall, auditorium,
887 stadium, theater, arena, civic center, performing arts center,
888 publicly owned recreational facility, or any business operated
889 under a permit issued pursuant to chapter 550. This exception to
890 the tax imposed by this section applies only to the space used
891 exclusively for selling and distributing food and drinks. A
892 person providing retail concessionaire services involving the
893 sale of food and drink or other tangible personal property
894 within the premises of an airport is ~~shall be~~ subject to tax on
895 the rental of real property used for that purpose, but is ~~shall~~
896 ~~be~~ subject to the tax on any license to use the property.
897 For purposes of this subparagraph, the term "sale" does ~~shall~~
898 not include the leasing of tangible personal property.

899 11. Property occupied pursuant to an instrument calling for

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900 payments which the department has declared, in a Technical
901 Assistance Advisement issued on or before March 15, 1993, to be
902 nontaxable pursuant to rule 12A-1.070(19)(c), Florida
903 Administrative Code; provided that this subparagraph shall only
904 apply to property occupied by the same person before and after
905 the execution of the subject instrument and only to those
906 payments made pursuant to such instrument, exclusive of renewals
907 and extensions thereof occurring after March 15, 1993.

908 12. Property used or occupied predominantly for space
909 flight business purposes. As used in this subparagraph, "space
910 flight business" means the manufacturing, processing, or
911 assembly of a space facility, space propulsion system, space
912 vehicle, satellite, or station of any kind possessing the
913 capacity for space flight, as defined by s. 212.02 ~~s.~~
914 ~~212.02(23)~~, or components thereof, and also means the following
915 activities supporting space flight: vehicle launch activities,
916 flight operations, ground control or ground support, and all
917 administrative activities directly related thereto. Property is
918 ~~shall be~~ deemed to be used or occupied predominantly for space
919 flight business purposes if more than 50 percent of the
920 property, or improvements thereon, is used for one or more space
921 flight business purposes. Possession by a landlord, lessor, or
922 licensor of a signed written statement from the tenant, lessee,
923 or licensee claiming the exemption relieves ~~shall relieve~~ the
924 landlord, lessor, or licensor from the responsibility of
925 collecting the tax, and the department shall look solely to the
926 tenant, lessee, or licensee for recovery of such tax if it
927 determines that the exemption was not applicable.

928 13. Rented, leased, subleased, or licensed to a person

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929 providing telecommunications, data systems management, or
930 Internet services at a publicly or privately owned convention
931 hall, civic center, or meeting space at a public lodging
932 establishment as defined in s. 509.013. This subparagraph
933 applies only to that portion of the rental, lease, or license
934 payment that is based upon a percentage of sales, revenue
935 sharing, or royalty payments and not based upon a fixed price.
936 This subparagraph is intended to be clarifying and remedial in
937 nature and shall apply retroactively. This subparagraph does not
938 provide a basis for an assessment of any tax not paid, or create
939 a right to a refund of any tax paid, pursuant to this section
940 before July 1, 2010.

941 (b) If ~~When~~ a lease involves multiple use of real property
942 wherein a part of the real property is subject to the tax
943 herein, and a part of the property would be excluded from the
944 tax under subparagraph (a)1., subparagraph (a)2., subparagraph
945 (a)3., or subparagraph (a)5., the department shall determine,
946 from the lease or license and such other information as may be
947 available, that portion of the total rental charge which is
948 exempt from the tax imposed by this section. The portion of the
949 premises leased or rented by a for-profit entity providing a
950 residential facility for the aged will be exempt on the basis of
951 a pro rata portion calculated by combining the square footage of
952 the areas used for residential units by the aged and for the
953 care of such residents and dividing the resultant sum by the
954 total square footage of the rented premises. For purposes of
955 this section, the term "residential facility for the aged" means
956 a facility that is licensed or certified in whole or in part
957 under chapter 400, chapter 429, or chapter 651; or that provides

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958 residences to the elderly and is financed by a mortgage or loan
959 made or insured by the United States Department of Housing and
960 Urban Development under s. 202, s. 202 with a s. 8 subsidy, s.
961 221(d)(3) or (4), s. 232, or s. 236 of the National Housing Act;
962 or other such similar facility that provides residences
963 primarily for the elderly.

964 (c) For the exercise of such privilege, a tax is levied in
965 an amount equal to 6 percent of and on the total rent or license
966 fee charged for such real property by the person charging or
967 collecting the rental or license fee. The total rent or license
968 fee charged for such real property shall include payments for
969 the granting of a privilege to use or occupy real property for
970 any purpose and shall include base rent, percentage rents, or
971 similar charges. Such charges shall be included in the total
972 rent or license fee subject to tax under this section whether or
973 not they can be attributed to the ability of the lessor's or
974 licensor's property as used or operated to attract customers.
975 Payments for intrinsically valuable personal property such as
976 franchises, trademarks, service marks, logos, or patents are not
977 subject to tax under this section. In the case of a contractual
978 arrangement that provides for both payments taxable as total
979 rent or license fee and payments not subject to tax, the tax
980 shall be based on a reasonable allocation of such payments and
981 does ~~shall~~ not apply to that portion that ~~which~~ is for the
982 nontaxable payments.

983 (d) If ~~When~~ the rental or license fee of any such real
984 property is paid by way of property, goods, wares, merchandise,
985 services, or other thing of value, the tax is ~~shall be~~ at the
986 rate of 6 percent of the value of the property, goods, wares,

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987 merchandise, services, or other thing of value.

988 Section 5. The amendment to subparagraph 10. of paragraph
989 (a) of subsection (1) of section 212.031, Florida Statutes, made
990 by this act operates retroactively. However, the retroactive
991 operation of the amendment is remedial in nature and does not
992 create the right to a refund or require a refund by any
993 governmental entity of any tax, penalty, or interest remitted to
994 the Department of Revenue before January 1, 2012.

995 Section 6. Paragraph (b) of subsection (1) and paragraph
996 (a) of subsection (2) of section 212.04, Florida Statutes, are
997 amended to read:

998 212.04 Admissions tax; rate, procedure, enforcement.—

999 (1)

1000 (b) For the exercise of such privilege, a tax is levied at
1001 the rate of 6 percent of sales price, or the actual value
1002 received from such admissions. The, which 6 percent shall be
1003 added to and collected with all such admissions from the
1004 purchaser thereof, and such tax shall be paid for the exercise
1005 of the privilege as defined in the preceding paragraph. Each
1006 ticket must show on its face the actual sales price of the
1007 admission, or each dealer selling the admission must prominently
1008 display at the box office or other place where the admission
1009 charge is made a notice disclosing the price of the admission,
1010 and the tax shall be computed and collected on the basis of the
1011 actual price of the admission charged by the dealer. The sale
1012 price or actual value of admission shall, for the purpose of
1013 this chapter, be that price remaining after deduction of federal
1014 taxes and state or locally imposed or authorized seat
1015 surcharges, taxes, or fees, if any, imposed upon such admission.

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1016 The sale price or actual value does not include separately
1017 stated ticket service charges that are imposed by a facility
1018 ticket office or a ticketing service and added to a separately
1019 stated, established ticket price. ~~The rate of tax on each~~
1020 ~~admission shall be according to the brackets established by s.~~
1021 ~~212.12(9).~~

1022 (2) (a) 1. No tax shall be levied on admissions to athletic
1023 or other events sponsored by elementary schools, junior high
1024 schools, middle schools, high schools, community colleges,
1025 public or private colleges and universities, deaf and blind
1026 schools, facilities of the youth services programs of the
1027 Department of Children and Family Services, and state
1028 correctional institutions when only student, faculty, or inmate
1029 talent is used. However, this exemption shall not apply to
1030 admission to athletic events sponsored by a state university,
1031 and the proceeds of the tax collected on such admissions shall
1032 be retained and used by each institution to support women's
1033 athletics as provided in s. 1006.71(2)(c).

1034 2.a. No tax shall be levied on dues, membership fees, and
1035 admission charges imposed by not-for-profit sponsoring
1036 organizations. To receive this exemption, the sponsoring
1037 organization must qualify as a not-for-profit entity under the
1038 provisions of s. 501(c)(3) of the Internal Revenue Code of 1954,
1039 as amended.

1040 b. A tax may not be levied on admission charges to an event
1041 sponsored by a public college, university, or community college
1042 if the event is held in a convention hall, exhibition hall,
1043 auditorium, stadium, theater, arena, civic center, performing
1044 arts center, or publicly owned recreational facility if all of

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1045 the risk of success or failure lies with the sponsor of the
 1046 event, all of the funds at risk for the event belong to the
 1047 sponsor, and student or faculty talent are not exclusively used.

1048 ~~No tax shall be levied on admission charges to an event~~
 1049 ~~sponsored by a governmental entity, sports authority, or sports~~
 1050 ~~commission when held in a convention hall, exhibition hall,~~
 1051 ~~auditorium, stadium, theater, arena, civic center, performing~~
 1052 ~~arts center, or publicly owned recreational facility and when~~
 1053 ~~100 percent of the risk of success or failure lies with the~~
 1054 ~~sponsor of the event and 100 percent of the funds at risk for~~
 1055 ~~the event belong to the sponsor, and student or faculty talent~~
 1056 ~~is not exclusively used. As used in this sub-subparagraph, the~~
 1057 ~~terms "sports authority" and "sports commission" mean a~~
 1058 ~~nonprofit organization that is exempt from federal income tax~~
 1059 ~~under s. 501(c)(3) of the Internal Revenue Code and that~~
 1060 ~~contracts with a county or municipal government for the purpose~~
 1061 ~~of promoting and attracting sports tourism events to the~~
 1062 ~~community with which it contracts.~~

1063 3. No tax shall be levied on an admission paid by a
 1064 student, or on the student's behalf, to any required place of
 1065 sport or recreation if the student's participation in the sport
 1066 or recreational activity is required as a part of a program or
 1067 activity sponsored by, and under the jurisdiction of, the
 1068 student's educational institution, provided his or her
 1069 attendance is as a participant and not as a spectator.

1070 4. No tax shall be levied on admissions to the National
 1071 Football League championship game or Pro Bowl; on admissions to
 1072 any semifinal game or championship game of a national collegiate
 1073 tournament; on admissions to a Major League Baseball, National

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1074 Basketball Association, or National Hockey League all-star game;
1075 on admissions to the Major League Baseball Home Run Derby held
1076 before the Major League Baseball All-Star Game; or on admissions
1077 to the National Basketball Association Rookie Challenge,
1078 Celebrity Game, 3-Point Shooting Contest, or Slam Dunk
1079 Challenge.

1080 5. A participation fee or sponsorship fee imposed by a
1081 governmental entity as described in s. 212.08(6) for an athletic
1082 or recreational program is exempt when the governmental entity
1083 by itself, or in conjunction with an organization exempt under
1084 s. 501(c)(3) of the Internal Revenue Code of 1954, as amended,
1085 sponsors, administers, plans, supervises, directs, and controls
1086 the athletic or recreational program.

1087 6. Also exempt from the tax imposed by this section to the
1088 extent provided in this subparagraph are admissions to live
1089 theater, live opera, or live ballet productions in this state
1090 which are sponsored by an organization that has received a
1091 determination from the Internal Revenue Service that the
1092 organization is exempt from federal income tax under s.
1093 501(c)(3) of the Internal Revenue Code of 1954, as amended, if
1094 the organization actively participates in planning and
1095 conducting the event, is responsible for the safety and success
1096 of the event, is organized for the purpose of sponsoring live
1097 theater, live opera, or live ballet productions in this state,
1098 has more than 10,000 subscribing members and has among the
1099 stated purposes in its charter the promotion of arts education
1100 in the communities ~~which~~ it serves, and will receive at least 20
1101 percent of the net profits, if any, of the events sponsored by
1102 ~~which~~ the organization ~~sponsors~~ and will bear the risk of at

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1103 least 20 percent of the losses, if any, from the events ~~which~~ it
1104 sponsors if the organization employs other persons as agents to
1105 provide services in connection with a sponsored event. Prior to
1106 March 1 of each year, such organization may apply to the
1107 department for a certificate of exemption for admissions to such
1108 events sponsored in this state by the organization during the
1109 immediately following state fiscal year. The application shall
1110 state the total dollar amount of admissions receipts collected
1111 by the organization or its agents from such events in this state
1112 sponsored by the organization or its agents in the year
1113 immediately preceding the year in which the organization applies
1114 for the exemption. Such organization shall receive the exemption
1115 only to the extent of \$1.5 million multiplied by the ratio that
1116 such receipts bear to the total of such receipts of all
1117 organizations applying for the exemption in such year; however,
1118 in no event shall such exemption granted to any organization
1119 exceed 6 percent of such admissions receipts collected by the
1120 organization or its agents in the year immediately preceding the
1121 year in which the organization applies for the exemption. Each
1122 organization receiving the exemption shall report each month to
1123 the department the total admissions receipts collected from such
1124 events sponsored by the organization during the preceding month
1125 and shall remit to the department an amount equal to 6 percent
1126 of such receipts reduced by any amount remaining under the
1127 exemption. Tickets for such events sold by such organizations
1128 shall not reflect the tax otherwise imposed under this section.

1129 7. Also exempt from the tax imposed by this section are
1130 entry fees for participation in freshwater fishing tournaments.

1131 8. Also exempt from the tax imposed by this section are

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1132 participation or entry fees charged to participants in a game,
1133 race, or other sport or recreational event if spectators are
1134 charged a taxable admission to such event.

1135 9. No tax shall be levied on admissions to any postseason
1136 collegiate football game sanctioned by the National Collegiate
1137 Athletic Association.

1138 Section 7. Section 212.05, Florida Statutes, is amended to
1139 read:

1140 212.05 Sales, storage, use tax.—It is ~~hereby~~ declared to be
1141 the legislative intent that every person is exercising a taxable
1142 privilege who engages in the business of selling tangible
1143 personal property at retail in this state, ~~including the~~
1144 ~~business of making mail order sales, or~~ who rents or furnishes
1145 any of the things or services taxable under this chapter, or who
1146 stores for use or consumption in this state any item or article
1147 of tangible personal property as defined herein and who leases
1148 or rents such property within the state.

1149 (1) For the exercise of such privilege, a tax is levied on
1150 each taxable transaction or incident, which tax is due and
1151 payable as follows:

1152 (a)1.a. At the rate of 6 percent of the sales price of each
1153 item or article of tangible personal property when sold at
1154 retail in this state, computed on each taxable sale for the
1155 purpose of remitting the amount of tax due the state, and
1156 including each and every retail sale.

1157 b. Each occasional or isolated sale of an aircraft, boat,
1158 mobile home, or motor vehicle of a class or type which is
1159 required to be registered, licensed, titled, or documented in
1160 this state or by the United States Government shall be subject

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1161 to tax at the rate provided in this paragraph. The department
1162 shall by rule adopt any nationally recognized publication for
1163 valuation of used motor vehicles as the reference price list for
1164 any used motor vehicle that ~~which~~ is required to be licensed
1165 pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9).
1166 If any party to an occasional or isolated sale of such a vehicle
1167 reports to the tax collector a sales price that ~~which~~ is less
1168 than 80 percent of the average loan price for the specified
1169 model and year of such vehicle as listed in the most recent
1170 reference price list, the tax levied under this paragraph shall
1171 be computed by the department on such average loan price unless
1172 the parties to the sale have provided to the tax collector an
1173 affidavit signed by each party, or other substantial proof,
1174 stating the actual sales price. Any party to such sale who
1175 reports a sales price less than the actual sales price commits
1176 ~~is guilty of~~ a misdemeanor of the first degree, punishable as
1177 provided in s. 775.082 or s. 775.083. The department shall
1178 collect or attempt to collect from such party any delinquent
1179 sales taxes. In addition, such party shall pay any tax due and
1180 any penalty and interest assessed plus a penalty equal to twice
1181 the amount of the additional tax owed. Notwithstanding any other
1182 provision of law, the Department of Revenue may waive or
1183 compromise any penalty imposed pursuant to this subparagraph.

1184 2. This paragraph does not apply to the sale of a boat or
1185 aircraft by or through a registered dealer under this chapter to
1186 a purchaser who, at the time of taking delivery, is a
1187 nonresident of this state, does not make his or her permanent
1188 place of abode in this state, and is not engaged in carrying on
1189 in this state any employment, trade, business, or profession in

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1190 which the boat or aircraft will be used in this state, or is a
1191 corporation none of the officers or directors of which is a
1192 resident of, or makes his or her permanent place of abode in,
1193 this state, or is a noncorporate entity that has no individual
1194 vested with authority to participate in the management,
1195 direction, or control of the entity's affairs who is a resident
1196 of, or makes his or her permanent abode in, this state. For
1197 purposes of this exemption, either a registered dealer acting on
1198 his or her own behalf as seller, a registered dealer acting as
1199 broker on behalf of a seller, or a registered dealer acting as
1200 broker on behalf of the purchaser may be deemed to be the
1201 selling dealer. This exemption shall not be allowed unless:

1202 a. The purchaser removes a qualifying boat, as described in
1203 sub-subparagraph f., from the state within 90 days after the
1204 date of purchase or extension, or the purchaser removes a
1205 nonqualifying boat or an aircraft from this state within 10 days
1206 after the date of purchase or, when the boat or aircraft is
1207 repaired or altered, within 20 days after completion of the
1208 repairs or alterations;

1209 b. The purchaser, within 30 days from the date of
1210 departure, shall provide the department with written proof that
1211 the purchaser licensed, registered, titled, or documented the
1212 boat or aircraft outside the state. If such written proof is
1213 unavailable, within 30 days the purchaser shall provide proof
1214 that the purchaser applied for such license, title,
1215 registration, or documentation. The purchaser shall forward to
1216 the department proof of title, license, registration, or
1217 documentation upon receipt;

1218 c. The purchaser, within 10 days of removing the boat or

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1219 aircraft from Florida, shall furnish the department with proof
1220 of removal in the form of receipts for fuel, dockage, slippage,
1221 tie-down, or hangaring from outside of Florida. The information
1222 so provided must clearly and specifically identify the boat or
1223 aircraft;

1224 d. The selling dealer, within 5 days of the date of sale,
1225 shall provide to the department a copy of the sales invoice,
1226 closing statement, bills of sale, and the original affidavit
1227 signed by the purchaser attesting that he or she has read the
1228 provisions of this section;

1229 e. The seller makes a copy of the affidavit a part of his
1230 or her record for as long as required by s. 213.35; and

1231 f. Unless the nonresident purchaser of a boat of 5 net tons
1232 of admeasurement or larger intends to remove the boat from this
1233 state within 10 days after the date of purchase or, when the
1234 boat is repaired or altered, within 20 days after completion of
1235 the repairs or alterations, the nonresident purchaser shall
1236 apply to the selling dealer for a decal that ~~which~~ authorizes 90
1237 days after the date of purchase for removal of the boat. The
1238 nonresident purchaser of a qualifying boat may apply to the
1239 selling dealer within 60 days after the date of purchase for an
1240 extension decal that authorizes the boat to remain in this state
1241 for an additional 90 days, but not more than a total of 180
1242 days, before the nonresident purchaser is required to pay the
1243 tax imposed by this chapter. The department is authorized to
1244 issue decals in advance to dealers. The number of decals issued
1245 in advance to a dealer shall be consistent with the volume of
1246 the dealer's past sales of boats which qualify under this sub-
1247 subparagraph. The selling dealer or his or her agent shall mark

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1248 and affix the decals to qualifying boats in the manner
1249 prescribed by the department, prior to delivery of the boat.

1250 (I) The department is hereby authorized to charge dealers a
1251 fee sufficient to recover the costs of decals issued, except the
1252 extension decal shall cost \$425.

1253 (II) The proceeds from the sale of decals will be deposited
1254 into the administrative trust fund.

1255 (III) Decals shall display information to identify the boat
1256 as a qualifying boat under this sub-subparagraph, including, but
1257 not limited to, the decal's date of expiration.

1258 (IV) The department is authorized to require dealers who
1259 purchase decals to file reports with the department and may
1260 prescribe all necessary records by rule. All such records are
1261 subject to inspection by the department.

1262 (V) Any dealer or his or her agent who issues a decal
1263 falsely, fails to affix a decal, mismarks the expiration date of
1264 a decal, or fails to properly account for decals will be
1265 considered prima facie to have committed a fraudulent act to
1266 evade the tax and will be liable for payment of the tax plus a
1267 mandatory penalty of 200 percent of the tax, and shall be liable
1268 for fine and punishment as provided by law for a conviction of a
1269 misdemeanor of the first degree, as provided in s. 775.082 or s.
1270 775.083.

1271 (VI) Any nonresident purchaser of a boat who removes a
1272 decal prior to permanently removing the boat from the state, or
1273 defaces, changes, modifies, or alters a decal in a manner
1274 affecting its expiration date prior to its expiration, or who
1275 causes or allows the same to be done by another, will be
1276 considered prima facie to have committed a fraudulent act to

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1277 evade the tax and will be liable for payment of the tax plus a
1278 mandatory penalty of 200 percent of the tax, and shall be liable
1279 for fine and punishment as provided by law for a conviction of a
1280 misdemeanor of the first degree, as provided in s. 775.082 or s.
1281 775.083.

1282 (VII) The department is authorized to adopt rules necessary
1283 to administer and enforce this subparagraph and to publish the
1284 necessary forms and instructions.

1285 (VIII) The department is hereby authorized to adopt
1286 emergency rules pursuant to s. 120.54(4) to administer and
1287 enforce the provisions of this subparagraph.

1288
1289 If the purchaser fails to remove the qualifying boat from this
1290 state within the maximum 180 days after purchase or a
1291 nonqualifying boat or an aircraft from this state within 10 days
1292 after purchase or, when the boat or aircraft is repaired or
1293 altered, within 20 days after completion of such repairs or
1294 alterations, or permits the boat or aircraft to return to this
1295 state within 6 months from the date of departure, except as
1296 provided in s. 212.08(7) (ggg), or if the purchaser fails to
1297 furnish the department with any of the documentation required by
1298 this subparagraph within the prescribed time period, the
1299 purchaser shall be liable for use tax on the cost price of the
1300 boat or aircraft and, in addition thereto, payment of a penalty
1301 to the Department of Revenue equal to the tax payable. This
1302 penalty shall be in lieu of the penalty imposed by s. 212.12(2).
1303 The maximum 180-day period following the sale of a qualifying
1304 boat tax-exempt to a nonresident may not be tolled for any
1305 reason.

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1306 (b) At the rate of 6 percent of the cost price of each item
1307 or article of tangible personal property when the same is not
1308 sold but is used, consumed, distributed, or stored for use or
1309 consumption in this state; however, for tangible property
1310 originally purchased exempt from tax for use exclusively for
1311 lease and which is converted to the owner's own use, tax may be
1312 paid on the fair market value of the property at the time of
1313 conversion. If the fair market value of the property cannot be
1314 determined, use tax at the time of conversion shall be based on
1315 the owner's acquisition cost. Under no circumstances may the
1316 aggregate amount of sales tax from leasing the property and use
1317 tax due at the time of conversion be less than the total sales
1318 tax that would have been due on the original acquisition cost
1319 paid by the owner.

1320 (c) At the rate of 6 percent of the gross proceeds derived
1321 from the lease or rental of tangible personal property, as
1322 defined herein.; ~~however, the following special provisions apply~~
1323 ~~to the lease or rental of motor vehicles:~~

1324 ~~1. When a motor vehicle is leased or rented for a period of~~
1325 ~~less than 12 months:~~

1326 ~~a. If the motor vehicle is rented in Florida, the entire~~
1327 ~~amount of such rental is taxable, even if the vehicle is dropped~~
1328 ~~off in another state.~~

1329 ~~b. If the motor vehicle is rented in another state and~~
1330 ~~dropped off in Florida, the rental is exempt from Florida tax.~~

1331 ~~2. Except as provided in subparagraph 3., for the lease or~~
1332 ~~rental of a motor vehicle for a period of not less than 12~~
1333 ~~months, sales tax is due on the lease or rental payments if the~~
1334 ~~vehicle is registered in this state; provided, however, that no~~

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1335 ~~tax shall be due if the taxpayer documents use of the motor~~
1336 ~~vehicle outside this state and tax is being paid on the lease or~~
1337 ~~rental payments in another state.~~

1338 ~~3. The tax imposed by this chapter does not apply to the~~
1339 ~~lease or rental of a commercial motor vehicle as defined in s.~~
1340 ~~316.003(66) (a) to one lessee or rentee for a period of not less~~
1341 ~~than 12 months when tax was paid on the purchase price of such~~
1342 ~~vehicle by the lessor. To the extent tax was paid with respect~~
1343 ~~to the purchase of such vehicle in another state, territory of~~
1344 ~~the United States, or the District of Columbia, the Florida tax~~
1345 ~~payable shall be reduced in accordance with the provisions of s.~~
1346 ~~212.06(7). This subparagraph shall only be available when the~~
1347 ~~lease or rental of such property is an established business or~~
1348 ~~part of an established business or the same is incidental or~~
1349 ~~germane to such business.~~

1350 (d) At the rate of 6 percent of the lease or rental price
1351 paid by a lessee or rentee, or contracted or agreed to be paid
1352 by a lessee or rentee, to the owner of the tangible personal
1353 property.

1354 (e)1. At the rate of 6 percent on charges for:

1355 a. Prepaid calling arrangements. The tax on charges for
1356 prepaid calling arrangements shall be collected at the time of
1357 sale and remitted by the selling dealer.

1358 (I) "Prepaid calling arrangement" means the separately
1359 stated retail sale by advance payment of communications services
1360 that consist exclusively of telephone calls originated by using
1361 an access number, authorization code, or other means that may be
1362 manually, electronically, or otherwise entered and that are sold
1363 in predetermined units or dollars whose number declines with use

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1364 in a known amount.

1365 (II) The sale or recharge of the prepaid calling
1366 arrangement is deemed to take place in accordance with s.
1367 212.054. If the sale or recharge of the prepaid calling
1368 arrangement does not take place at the dealer's place of
1369 business, it shall be deemed to take place at the customer's
1370 shipping address or, if no item is shipped, at the customer's
1371 address or the location associated with the customer's mobile
1372 telephone number.

1373 (III) The sale or recharge of a prepaid calling arrangement
1374 shall be treated as a sale of tangible personal property for
1375 purposes of this chapter, whether or not a tangible item
1376 evidencing such arrangement is furnished to the purchaser, and
1377 such sale within this state subjects the selling dealer to the
1378 jurisdiction of this state for purposes of this subsection.

1379 b. The installation of telecommunication and telegraphic
1380 equipment.

1381 c. Electrical power or energy, except that the tax rate for
1382 charges for electrical power or energy is 7 percent.

1383 2. The provisions of s. 212.17(3), regarding credit for tax
1384 paid on charges subsequently charged off as uncollectible on the
1385 dealer's books and records found to be worthless, apply shall be
1386 equally applicable to any tax paid under the provisions of this
1387 section on charges for prepaid calling arrangements,
1388 telecommunication or telegraph services, or electric power
1389 subsequently found to be uncollectible. The word "charges" in
1390 this paragraph does not include any excise or similar tax levied
1391 by the Federal Government, any political subdivision of the
1392 state, or any municipality upon the purchase, sale, or recharge

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1393 of prepaid calling arrangements or upon the purchase or sale of
1394 telecommunication, television system program, or telegraph
1395 service or electric power, which tax is collected by the seller
1396 from the purchaser.

1397 (f) At the rate of 6 percent on the sale, rental, use,
1398 consumption, or storage for use in this state of machines and
1399 equipment, and parts and accessories therefor, used in
1400 manufacturing, processing, compounding, producing, mining, or
1401 quarrying personal property for sale or to be used in furnishing
1402 communications, transportation, or public utility services.

1403 (g)1. At the rate of 6 percent on the retail price of
1404 newspapers and magazines sold or used in Florida.

1405 2. Notwithstanding other provisions of this chapter,
1406 inserts of printed materials which are distributed with a
1407 newspaper or magazine are a component part of the newspaper or
1408 magazine, and neither the sale nor use of such inserts is
1409 subject to tax when:

1410 a. Printed by a newspaper or magazine publisher or
1411 commercial printer and distributed as a component part of a
1412 newspaper or magazine, which means that the items after being
1413 printed are delivered directly to a newspaper or magazine
1414 publisher by the printer for inclusion in editions of the
1415 distributed newspaper or magazine;

1416 b. Such publications are labeled as part of the designated
1417 newspaper or magazine publication into which they are to be
1418 inserted; and

1419 c. The purchaser of the insert presents a resale
1420 certificate to the vendor stating that the inserts are to be
1421 distributed as a component part of a newspaper or magazine.

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1422 (h)1. A tax is imposed at the rate of 6 4 percent on the
1423 charges for the use of coin-operated amusement machines. The tax
1424 shall be calculated by dividing the gross receipts from such
1425 charges for the applicable reporting period by a divisor,
1426 determined as provided in this subparagraph, to compute gross
1427 taxable sales, and then subtracting gross taxable sales from
1428 gross receipts to arrive at the amount of tax due. For counties
1429 that do not impose a discretionary sales surtax, the divisor is
1430 equal to 1.06 ~~1.04~~; for counties that impose a 0.5 percent
1431 discretionary sales surtax, the divisor is equal to 1.065 ~~1.045~~;
1432 for counties that impose a 1 percent discretionary sales surtax,
1433 the divisor is equal to 1.07 ~~1.050~~; and for counties that impose
1434 a 2 percent sales surtax, the divisor is equal to 1.08 ~~1.060~~. If
1435 a county imposes a discretionary sales surtax that is not listed
1436 in this subparagraph, the department shall make the applicable
1437 divisor available in an electronic format or otherwise.
1438 Additional divisors shall bear the same mathematical
1439 relationship to the next higher and next lower divisors as the
1440 new surtax rate bears to the next higher and next lower surtax
1441 rates for which divisors have been established. When a machine
1442 is activated by a slug, token, coupon, or any similar device
1443 that ~~which~~ has been purchased, the tax is on the price paid by
1444 the user of the device for such device.

1445 2. As used in this paragraph, the term "operator" means any
1446 person who possesses a coin-operated amusement machine for the
1447 purpose of generating sales through that machine and who is
1448 responsible for removing the receipts from the machine.

1449 a. If the owner of the machine is also the operator of it,
1450 he or she shall be liable for payment of the tax without any

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1451 deduction for rent or a license fee paid to a location owner for
1452 the use of any real property on which the machine is located.

1453 b. If the owner or lessee of the machine is also its
1454 operator, he or she shall be liable for payment of the tax on
1455 the purchase or lease of the machine, as well as the tax on
1456 sales generated through the machine.

1457 c. If the proprietor of the business where the machine is
1458 located does not own the machine, he or she shall be deemed to
1459 be the lessee and operator of the machine and is responsible for
1460 the payment of the tax on sales, unless such responsibility is
1461 otherwise provided for in a written agreement between him or her
1462 and the machine owner.

1463 3.a. An operator of a coin-operated amusement machine may
1464 not operate or cause to be operated in this state any such
1465 machine until the operator has registered with the department
1466 and has conspicuously displayed an identifying certificate
1467 issued by the department. The identifying certificate shall be
1468 issued by the department upon application from the operator. The
1469 identifying certificate shall include a unique number, and the
1470 certificate shall be permanently marked with the operator's
1471 name, the operator's sales tax number, and the maximum number of
1472 machines to be operated under the certificate. An identifying
1473 certificate shall not be transferred from one operator to
1474 another. The identifying certificate must be conspicuously
1475 displayed on the premises where the coin-operated amusement
1476 machines are being operated.

1477 b. The operator of the machine must obtain an identifying
1478 certificate before the machine is first operated in the state
1479 and by July 1 of each year thereafter. The annual fee for each

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1480 certificate shall be based on the number of machines identified
1481 on the application times \$30 and is due and payable upon
1482 application for the identifying device. The application shall
1483 contain the operator's name, sales tax number, business address
1484 where the machines are being operated, and the number of
1485 machines in operation at that place of business by the operator.
1486 No operator may operate more machines than are listed on the
1487 certificate. A new certificate is required if more machines are
1488 being operated at that location than are listed on the
1489 certificate. The fee for the new certificate shall be based on
1490 the number of additional machines identified on the application
1491 form times \$30.

1492 c. A penalty of \$250 per machine is imposed on the operator
1493 for failing to properly obtain and display the required
1494 identifying certificate. A penalty of \$250 is imposed on the
1495 lessee of any machine placed in a place of business without a
1496 proper current identifying certificate. Such penalties shall
1497 apply in addition to all other applicable taxes, interest, and
1498 penalties.

1499 d. Operators of coin-operated amusement machines must
1500 obtain a separate sales and use tax certificate of registration
1501 for each county in which such machines are located. One sales
1502 and use tax certificate of registration is sufficient for all of
1503 the operator's machines within a single county.

1504 4. The provisions of this paragraph do not apply to coin-
1505 operated amusement machines owned and operated by churches or
1506 synagogues.

1507 5. In addition to any other penalties imposed by this
1508 chapter, a person who knowingly and willfully violates any

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1509 provision of this paragraph commits a misdemeanor of the second
1510 degree, punishable as provided in s. 775.082 or s. 775.083.

1511 6. The department may adopt rules necessary to administer
1512 the provisions of this paragraph.

1513 (i)1. At the rate of 6 percent on charges for all:

1514 a. Detective, burglar protection, and other protection
1515 services (NAICS National Numbers 561611, 561612, 561613, and
1516 561621). Any law enforcement officer, as defined in s. 943.10,
1517 who is performing approved duties as determined by his or her
1518 local law enforcement agency in his or her capacity as a law
1519 enforcement officer, and who is subject to the direct and
1520 immediate command of his or her law enforcement agency, and in
1521 the law enforcement officer's uniform as authorized by his or
1522 her law enforcement agency, is performing law enforcement and
1523 public safety services and is not performing detective, burglar
1524 protection, or other protective services, if the law enforcement
1525 officer is performing his or her approved duties in a
1526 geographical area in which the law enforcement officer has
1527 arrest jurisdiction. Such law enforcement and public safety
1528 services are not subject to tax irrespective of whether the duty
1529 is characterized as "extra duty," "off-duty," or "secondary
1530 employment," and irrespective of whether the officer is paid
1531 directly or through the officer's agency by an outside source.
1532 The term "law enforcement officer" includes full-time or part-
1533 time law enforcement officers, and any auxiliary law enforcement
1534 officer, when such auxiliary law enforcement officer is working
1535 under the direct supervision of a full-time or part-time law
1536 enforcement officer.

1537 b. Nonresidential cleaning, excluding cleaning of the

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1538 interiors of transportation equipment, and nonresidential
1539 building pest control services (NAICS National Numbers 561710
1540 and 561720).

1541 2. As used in this paragraph, "NAICS" means those
1542 classifications contained in the North American Industry
1543 Classification System, as published in 2007 by the Office of
1544 Management and Budget, Executive Office of the President.

1545 3. Charges for detective, burglar protection, and other
1546 protection security services performed in this state but used
1547 outside this state are exempt from taxation. Charges for
1548 detective, burglar protection, and other protection security
1549 services performed outside this state and used in this state are
1550 subject to tax.

1551 4. If a transaction involves both the sale or use of a
1552 service taxable under this paragraph and the sale or use of a
1553 service or any other item not taxable under this chapter, the
1554 consideration paid must be separately identified and stated with
1555 respect to the taxable and exempt portions of the transaction or
1556 the entire transaction shall be presumed taxable. The burden
1557 shall be on the seller of the service or the purchaser of the
1558 service, whichever applicable, to overcome this presumption by
1559 providing documentary evidence as to which portion of the
1560 transaction is exempt from tax. The department is authorized to
1561 adjust the amount of consideration identified as the taxable and
1562 exempt portions of the transaction; however, a determination
1563 that the taxable and exempt portions are inaccurately stated and
1564 that the adjustment is applicable must be supported by
1565 substantial competent evidence.

1566 5. Each seller of services subject to sales tax pursuant to

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1567 this paragraph shall maintain a monthly log showing each
1568 transaction for which sales tax was not collected because the
1569 services meet the requirements of subparagraph 3. for out-of-
1570 state use. The log must identify the purchaser's name, location
1571 and mailing address, and federal employer identification number,
1572 if a business, or the social security number, if an individual,
1573 the service sold, the price of the service, the date of sale,
1574 the reason for the exemption, and the sales invoice number. The
1575 monthly log shall be maintained pursuant to the same
1576 requirements and subject to the same penalties imposed for the
1577 keeping of similar records pursuant to this chapter.

1578 (j)1. Notwithstanding any other provision of this chapter,
1579 there is ~~hereby~~ levied a tax on the sale, use, consumption, or
1580 storage for use in this state of any coin or currency, whether
1581 in circulation or not, when such coin or currency:

1582 a. Is not legal tender;

1583 b. If legal tender, is sold, exchanged, or traded at a rate
1584 in excess of its face value; or

1585 c. Is sold, exchanged, or traded at a rate based on its
1586 precious metal content.

1587 2. Such tax shall be at a rate of 6 percent of the price at
1588 which the coin or currency is sold, exchanged, or traded, except
1589 that, with respect to a coin or currency that ~~which~~ is legal
1590 tender of the United States and that ~~which~~ is sold, exchanged,
1591 or traded, such tax shall not be levied.

1592 3. ~~There are exempt from this tax~~ Exchanges of coins or
1593 currency that ~~which~~ are in general circulation in, and legal
1594 tender of, one nation for coins or currency that ~~which~~ are in
1595 general circulation in, and legal tender of, another nation when

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1596 exchanged solely for use as legal tender and at an exchange rate
1597 based on the relative value of each as a medium of exchange are
1598 exempt from this tax.

1599 4. With respect to any transaction that involves the sale
1600 of coins or currency taxable under this paragraph in which the
1601 taxable amount represented by the sale of such coins or currency
1602 exceeds \$500, the entire amount represented by the sale of such
1603 coins or currency is exempt from the tax imposed under this
1604 paragraph. The dealer must maintain proper documentation, as
1605 prescribed by rule of the department, to identify that portion
1606 of a transaction which involves the sale of coins or currency
1607 and is exempt under this subparagraph.

1608 (k) At the rate of 6 percent of the sales price of each
1609 gallon of diesel fuel not taxed under chapter 206 purchased for
1610 use in a vessel.

1611 (l) Florists located in this state are liable for sales tax
1612 on sales to retail customers regardless of where or by whom the
1613 items sold are to be delivered. Florists located in this state
1614 are not liable for sales tax on payments received from other
1615 florists for items delivered to customers in this state.

1616 (m) Operators of game concessions or other concessionaires
1617 who customarily award tangible personal property as prizes may,
1618 in lieu of paying tax on the cost price of such property, pay
1619 tax on 25 percent of the gross receipts from such concession
1620 activity.

1621 (2) The tax shall be collected by the dealer, as defined
1622 herein, and remitted by the dealer to the state at the time and
1623 in the manner as hereinafter provided.

1624 (3) The tax so levied is in addition to all other taxes,

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1625 whether levied in the form of excise, license, or privilege
1626 taxes, and in addition to all other fees and taxes levied.

1627 ~~(4) The tax imposed pursuant to this chapter shall be due~~
1628 ~~and payable according to the brackets set forth in s. 212.12.~~

1629 (4)~~(5)~~ Notwithstanding any other provision of this chapter,
1630 the maximum amount of tax imposed under this chapter and
1631 collected on each sale or use of a boat in this state may not
1632 exceed \$18,000.

1633 Section 8. Subsections (6), (7), (8), (9), (10), and (11)
1634 of section 212.0506, Florida Statutes, are amended to read:

1635 212.0506 Taxation of service warranties.—

1636 ~~(6) This tax shall be due and payable according to the~~
1637 ~~brackets set forth in s. 212.12.~~

1638 (6)~~(7)~~ This tax shall not apply to any portion of the
1639 consideration received by any person in connection with the
1640 issuance of any service warranty contract upon which such person
1641 is required to pay any premium tax imposed under the Florida
1642 Insurance Code or under s. 634.313(1).

1643 (7)~~(8)~~ If a transaction involves both the issuance of a
1644 service warranty that is subject to such tax and the issuance of
1645 a warranty, guaranty, extended warranty or extended guaranty,
1646 contract, agreement, or other written promise that is not
1647 subject to such tax, the consideration shall be separately
1648 identified and stated with respect to the taxable and nontaxable
1649 portions of the transaction. If the consideration is separately
1650 apportioned and identified in good faith, such tax shall apply
1651 to the transaction to the extent that the consideration received
1652 or to be received in connection with the transaction is payment
1653 for a service warranty subject to such tax. If the consideration

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1654 is not apportioned in good faith, the department may reform the
1655 contract; such reformation by the department is to be considered
1656 prima facie correct, and the burden to show the contrary rests
1657 upon the dealer. If the consideration for such a transaction is
1658 not separately identified and stated, the entire transaction is
1659 taxable.

1660 (8)~~(9)~~ Any claim that ~~which~~ arises under a service warranty
1661 taxable under this section, which claim is paid directly by the
1662 person issuing such warranty, is not subject to any tax imposed
1663 under this chapter.

1664 (9)~~(10)~~ Materials and supplies used in the performance of a
1665 factory or manufacturer's warranty are exempt if the contract is
1666 furnished at no extra charge with the equipment guaranteed
1667 thereunder and such materials and supplies are paid for by the
1668 factory or manufacturer.

1669 (10)~~(11)~~ Any duties imposed by this chapter upon dealers of
1670 tangible personal property with respect to collecting and
1671 remitting taxes; making returns; keeping books, records, and
1672 accounts; and complying with the rules and regulations of the
1673 department apply to all dealers as defined in s. 212.06(2)(1).

1674 Section 9. Section 212.054, Florida Statutes, is amended to
1675 read:

1676 212.054 Discretionary sales surtax; limitations,
1677 administration, and collection.—

1678 (1) A ~~No~~ general excise tax on sales may not ~~shall~~ be
1679 levied by the governing body of any county unless specifically
1680 authorized in s. 212.055. Any general excise tax on sales
1681 authorized pursuant to said section shall be administered and
1682 collected exclusively as provided in this section.

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1683 (2) (a) The tax imposed by the governing body of any county
1684 authorized to so levy pursuant to s. 212.055 shall be a
1685 discretionary surtax on all transactions occurring in the county
1686 which transactions are subject to the state tax imposed on
1687 sales, use, services, rentals, admissions, and other
1688 transactions by this chapter and communications services as
1689 defined for purposes of chapter 202. The surtax, if levied,
1690 shall be computed as the applicable rate or rates authorized
1691 pursuant to s. 212.055 times the amount of taxable sales and
1692 taxable purchases representing such transactions. If the surtax
1693 is levied on the sale of an item of tangible personal property
1694 or on the sale of a service, the surtax shall be computed by
1695 multiplying the rate imposed by the county within which the sale
1696 occurs by the amount of the taxable sale. The sale of an item of
1697 tangible personal property or the sale of a service is not
1698 subject to the surtax if the property, the service, or the
1699 tangible personal property representing the service is delivered
1700 within a county that does not impose a discretionary sales
1701 surtax.

1702 (b) However:

1703 1. The sales amount above \$5,000 on a motor vehicle,
1704 aircraft, boat, manufactured home, modular home, or mobile home
1705 is any item of tangible personal property shall not be subject
1706 to the surtax. However, charges for prepaid calling
1707 arrangements, as defined in s. 212.05(1)(c)1.a., shall be
1708 subject to the surtax. For purposes of administering the \$5,000
1709 limitation on an item of tangible personal property, if two or
1710 more taxable items of tangible personal property are sold to the
1711 same purchaser at the same time and, under generally accepted

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~~business practice or industry standards or usage, are normally sold in bulk or are items that, when assembled, comprise a working unit or part of a working unit, such items must be considered a single item for purposes of the \$5,000 limitation when supported by a charge ticket, sales slip, invoice, or other tangible evidence of a single sale or rental.~~

2. In the case of utility services covering a period starting before and ending after the effective date of the surtax, the rate applies as follows:

a. In the case of a rate adoption or increase, the new rate applies to the first billing period starting on or after the effective date of the surtax adoption or increase.

b. In the case of a rate decrease or termination, the new rate applies to bills rendered on or after the effective date of the rate change ~~billed on or after the effective date of any such surtax, the entire amount of the charge for utility services shall be subject to the surtax. In the case of utility services billed after the last day the surtax is in effect, the entire amount of the charge on said items shall not be subject to the surtax.~~ "Utility service," as used in this section, does not include any communications services as defined in chapter 202.

3. In the case of written contracts that ~~which~~ are signed prior to the effective date of any such surtax for the construction of improvements to real property or for remodeling of existing structures, the surtax shall be paid by the contractor responsible for the performance of the contract. However, the contractor may apply for one refund of any such surtax paid on materials necessary for the completion of the

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1741 contract. Any application for refund shall be made no later than
1742 15 months following initial imposition of the surtax in that
1743 county. The application for refund shall be in the manner
1744 prescribed by the department by rule. A complete application
1745 shall include proof of the written contract and of payment of
1746 the surtax. The application shall contain a sworn statement,
1747 signed by the applicant or its representative, attesting to the
1748 validity of the application. The department shall, within 30
1749 days after approval of a complete application, certify to the
1750 county information necessary for issuance of a refund to the
1751 applicant. Counties are hereby authorized to issue refunds for
1752 this purpose and shall set aside from the proceeds of the surtax
1753 a sum sufficient to pay any refund lawfully due. Any person who
1754 fraudulently obtains or attempts to obtain a refund pursuant to
1755 this subparagraph, in addition to being liable for repayment of
1756 any refund fraudulently obtained plus a mandatory penalty of 100
1757 percent of the refund, is guilty of a felony of the third
1758 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1759 775.084.

1760 4. In the case of any vessel, railroad, or motor vehicle
1761 common carrier entitled to partial exemption from tax imposed
1762 under this chapter pursuant to s. 212.08(4), (8), or (9), the
1763 basis for imposition of surtax shall be the same as provided in
1764 s. 212.08 and the ratio shall be applied each month to total
1765 purchases in this state of property qualified for proration
1766 which is delivered or sold in the taxing county to establish the
1767 portion used and consumed in intracounty movement and subject to
1768 surtax.

1769 (3) For the purpose of this section, a transaction shall be

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1770 deemed to have occurred in a county imposing the surtax as
1771 follows ~~when~~:

1772 (a)1. Except as otherwise provided in this section, a
1773 retail sale subject to tax under this section, excluding a lease
1774 or rental, shall be deemed to take place:

1775 a. At the business location of the dealer, if the product
1776 is received by the purchaser at that business location;

1777 b. At the location where the product is received by the
1778 purchaser or the purchaser's designated agent, including the
1779 location indicated by instructions for delivery to the purchaser
1780 or agent, known to the dealer, if the product is not received by
1781 the purchaser or designated agent at a business location of the
1782 dealer;

1783 c. If sub-subparagraphs a. and b. do not apply, at the
1784 location identified as the address for the purchaser in the
1785 business records maintained by the dealer in the ordinary course
1786 of the dealer's business, if use of this address does not
1787 constitute bad faith;

1788 d. If sub-subparagraphs a., b., and c. do not apply, at the
1789 location indicated by an address for the purchaser obtained
1790 during the consummation of the sale, including the address on
1791 the purchaser's payment instrument, if no other address is
1792 available, if use of this address does not constitute bad faith;
1793 or

1794 e. If sub-subparagraphs a., b., c., and d. do not apply,
1795 including instances in which the dealer does not have sufficient
1796 information to apply the previous paragraphs, the address from
1797 which tangible personal property was shipped, from which the
1798 digital good or the computer software delivered electronically

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1799 was first available for transmission by the dealer, or from
1800 which the service was provided, disregarding any location that
1801 merely provided the digital transfer of the product sold.

1802 2. As used in this paragraph, the terms "receive" and
1803 "receipt" mean:

1804 a. Taking possession of tangible personal property;

1805 b. Making first use of the services; or

1806 c. Taking possession or making first use of digital goods,
1807 whichever occurs first.

1808
1809 The terms "receive" and "receipt" do not include possession by a
1810 shipping company on behalf of a purchaser.

1811 (b) The lease or rental of tangible personal property,
1812 other than property identified in paragraphs (c) and (d), shall
1813 be deemed to have occurred as follows:

1814 1. For a lease or rental that requires recurring periodic
1815 payments, the first periodic payment is deemed to take place in
1816 accordance with paragraph (a), notwithstanding the exclusion of
1817 a lease or rental in paragraph (a). Subsequent periodic payments
1818 are deemed to have occurred at the primary property location for
1819 each period covered by the payment. The primary property
1820 location is determined by an address for the property provided
1821 by the lessee which is available to the lessor from its records
1822 maintained in the ordinary course of business, if use of this
1823 address does not constitute bad faith. The property location is
1824 not altered by intermittent use of the property at different
1825 locations, such as use of business property that accompanies
1826 employees on business trips and service calls.

1827 2. For a lease or rental that does not require recurring

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1828 periodic payments, the payment is deemed to take place in
1829 accordance with paragraph (a), notwithstanding the exclusion of
1830 a lease or rental in paragraph (a).

1831 3. This paragraph does not affect the imposition or
1832 computation of sales or use tax on leases or rentals based on a
1833 lump sum or accelerated basis or on the acquisition of property
1834 for lease.

1835 (c) The lease or rental of a motor vehicle or aircraft that
1836 does not qualify as transportation equipment, as defined in
1837 paragraph (d), shall be sourced as follows:

1838 1. For a lease or rental that requires recurring periodic
1839 payments, each periodic payment is deemed to take place at the
1840 primary property location. The primary property location shall
1841 be determined by an address for the property provided by the
1842 lessee which is available to the lessor from its records
1843 maintained in the ordinary course of business, if use of this
1844 address does not constitute bad faith. This location is not
1845 altered by intermittent use at different locations.

1846 2. For a lease or rental that does not require recurring
1847 periodic payments, the payment is deemed to take place in
1848 accordance with paragraph (a), notwithstanding the exclusion of
1849 a lease or rental in paragraph (a).

1850 3. This paragraph does not affect the imposition or
1851 computation of sales or use tax on leases or rentals based on a
1852 lump sum or accelerated basis or on the acquisition of property
1853 for lease.

1854 (d) The retail sale, including a lease or rental, of
1855 transportation equipment shall be deemed to take place in
1856 accordance with paragraph (a), notwithstanding the exclusion of

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1857 a lease or rental in paragraph (a). The term "transportation
1858 equipment" means:

1859 1. Locomotives and rail cars that are used for the carriage
1860 of persons or property in interstate commerce;

1861 2. Trucks and truck tractors with a Gross Vehicle Weight
1862 Rating (GVWR) of 10,001 pounds or greater, trailers,
1863 semitrailers, or passenger buses that are registered through the
1864 International Registration Plan and operated under authority of
1865 a carrier authorized and certificated by the United States
1866 Department of Transportation or another federal authority to
1867 engage in the carriage of persons or property in interstate
1868 commerce;

1869 3. Aircraft that are operated by air carriers authorized
1870 and certificated by the United States Department of
1871 Transportation or another federal or a foreign authority to
1872 engage in the carriage of persons or property in interstate or
1873 foreign commerce; or

1874 4. Containers designed for use on and component parts
1875 attached or secured on the items set forth in subparagraphs 1.-
1876 3.

1877 (e)(a)1. The retail sale of a modular or manufactured home,
1878 not including a mobile home, occurs in the county to which the
1879 house is delivered includes an item of tangible personal
1880 property, a service, or tangible personal property representing
1881 a service, and the item of tangible personal property, the
1882 service, or the tangible personal property representing the
1883 service is delivered within the county. If there is no
1884 reasonable evidence of delivery of a service, the sale of a
1885 service is deemed to occur in the county in which the purchaser

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1886 ~~accepts the bill of sale.~~

1887 (f)2. The retail sale, excluding a lease or rental, of any
1888 motor vehicle that does not qualify as transportation equipment,
1889 as defined in paragraph (d), or the retail sale of a ~~of any~~
1890 motor vehicle or mobile home of a class or type ~~that~~ which is
1891 required to be registered in this state or in any other state ~~is~~
1892 shall be deemed to occur ~~have occurred only~~ in the county
1893 identified ~~from as~~ the residence address of the purchaser on the
1894 registration or title document for ~~the such~~ property.

1895 (g)~~(b)~~ Admission charged for an event occurs ~~The event for~~
1896 which an admission is charged is located in the county ~~in which~~
1897 the event is held.

1898 (h)~~(e)~~ A lease or rental of real property occurs in the
1899 county in which the real property is located. ~~The consumer of~~
1900 utility services is located in the county.

1901 (i)~~(d)~~1. The retail sale, excluding a lease or rental, of
1902 any aircraft that does not qualify as transportation equipment,
1903 as defined in paragraph (d), or of any boat of a class or type
1904 that is required to be registered, licensed, titled, or
1905 documented in this state or by the United States Government
1906 occurs in the county to which the aircraft or boat is delivered.

1907 2. The user of any aircraft or boat of a class or type ~~that~~
1908 which is required to be registered, licensed, titled, or
1909 documented in this state or by the United States Government
1910 imported into the county for use, consumption, distribution, or
1911 storage to be used or consumed occurs in the county in which the
1912 user is located ~~in the county~~.

1913 3.2. However, it shall be presumed that such items used
1914 outside the county imposing the surtax for 6 months or longer

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1915 before being imported into the county were not purchased for use
 1916 in the county, except as provided in s. 212.06(8)(b).

1917 ~~4.3.~~ This paragraph does not apply to the use or
 1918 consumption of items upon which a like tax of equal or greater
 1919 amount has been lawfully imposed and paid outside the county.

1920 ~~(j)(e)~~ The purchase purchaser of any motor vehicle or
 1921 mobile home of a class or type that ~~which~~ is required to be
 1922 registered in this state occurs in the county identified from
 1923 the residential address of the purchaser ~~is a resident of the~~
 1924 ~~taxing county as determined by the address appearing on or to be~~
 1925 ~~reflected on the registration document for the~~ such property.

1926 ~~(k)(f)~~1. The use, consumption, distribution, or storage of
 1927 a ~~Any~~ motor vehicle or mobile home of a class or type that ~~which~~
 1928 is required to be registered in this state and that is imported
 1929 from another state occurs in the county to which it is imported
 1930 ~~into the taxing county by a user residing therein for the~~
 1931 ~~purpose of use, consumption, distribution, or storage in the~~
 1932 ~~taxing county.~~

1933 2. However, it shall be presumed that such items used
 1934 outside the taxing county for 6 months or longer before being
 1935 imported into the county were not purchased for use in the
 1936 county.

1937 ~~(g)~~ ~~The real property which is leased or rented is located~~
 1938 ~~in the county.~~

1939 ~~(l)(h)~~ A The transient rental transaction occurs in the
 1940 county in which the rental property is located.

1941 ~~(i)~~ ~~The delivery of any aircraft or boat of a class or type~~
 1942 ~~which is required to be registered, licensed, titled, or~~
 1943 ~~documented in this state or by the United States Government is~~

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1944 ~~to a location in the county. However, this paragraph does not~~
1945 ~~apply to the use or consumption of items upon which a like tax~~
1946 ~~of equal or greater amount has been lawfully imposed and paid~~
1947 ~~outside the county.~~

1948 (m) ~~(j)~~ A transaction occurs in a county imposing the surtax
1949 if the dealer owing a use tax on purchases or leases is located
1950 in that the county.

1951 ~~(k) The delivery of tangible personal property other than~~
1952 ~~that described in paragraph (d), paragraph (e), or paragraph (f)~~
1953 ~~is made to a location outside the county, but the property is~~
1954 ~~brought into the county within 6 months after delivery, in which~~
1955 ~~event, the owner must pay the surtax as a use tax.~~

1956 (n) ~~(l)~~ The coin-operated amusement or vending machine is
1957 located in the county.

1958 (o) ~~(m)~~ An The florist taking the original order to sell
1959 tangible personal property taken by a florist occurs is located
1960 in the county in which the florist taking the order is located,
1961 notwithstanding any other provision of this section.

1962 (4) (a) The department shall administer, collect, and
1963 enforce the tax authorized under s. 212.055 pursuant to the same
1964 procedures used in the administration, collection, and
1965 enforcement of the general state sales tax imposed under the
1966 provisions of this chapter, except as provided in this section.
1967 The provisions of this chapter regarding interest and penalties
1968 on delinquent taxes shall apply to the surtax. Discretionary
1969 sales surtaxes shall not be included in the computation of
1970 estimated taxes pursuant to s. 212.11. Notwithstanding any other
1971 provision of law, a dealer need not separately state the amount
1972 of the surtax on the charge ticket, sales slip, invoice, or

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1973 other tangible evidence of sale. For the purposes of this
1974 section and s. 212.055, the "proceeds" of any surtax means all
1975 funds collected and received by the department pursuant to a
1976 specific authorization and levy under s. 212.055, including any
1977 interest and penalties on delinquent surtaxes.

1978 (b) The proceeds of a discretionary sales surtax collected
1979 by the selling dealer located in a county imposing the surtax
1980 shall be returned, less the cost of administration, to the
1981 county where the selling dealer is located. The proceeds shall
1982 be transferred to the Discretionary Sales Surtax Clearing Trust
1983 Fund. A separate account shall be established in the trust fund
1984 for each county imposing a discretionary surtax. The amount
1985 deducted for the costs of administration may not exceed 3
1986 percent of the total revenue generated for all counties levying
1987 a surtax authorized in s. 212.055. The amount deducted for the
1988 costs of administration may be used only for costs that are
1989 solely and directly attributable to the surtax. The total cost
1990 of administration shall be prorated among those counties levying
1991 the surtax on the basis of the amount collected for a particular
1992 county to the total amount collected for all counties. The
1993 department shall distribute the moneys in the trust fund to the
1994 appropriate counties each month, unless otherwise provided in s.
1995 212.055.

1996 (c)1. Any dealer located in a county that does not impose a
1997 discretionary sales surtax but who collects the surtax due to
1998 sales of tangible personal property or services delivered
1999 outside the county shall remit monthly the proceeds of the
2000 surtax to the department to be deposited into an account in the
2001 Discretionary Sales Surtax Clearing Trust Fund which is separate

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2002 from the county surtax collection accounts. The department shall
2003 distribute funds in this account using a distribution factor
2004 determined for each county that levies a surtax and multiplied
2005 by the amount of funds in the account and available for
2006 distribution. The distribution factor for each county equals the
2007 product of:

2008 a. The county's latest official population determined
2009 pursuant to s. 186.901;

2010 b. The county's rate of surtax; and

2011 c. The number of months the county has levied a surtax
2012 during the most recent distribution period;

2013
2014 divided by the sum of all such products of the counties levying
2015 the surtax during the most recent distribution period.

2016 2. The department shall compute distribution factors for
2017 eligible counties once each quarter and make appropriate
2018 quarterly distributions.

2019 3. A county that fails to timely provide the information
2020 required by this section to the department authorizes the
2021 department, by such action, to use the best information
2022 available to it in distributing surtax revenues to the county.
2023 If this information is unavailable to the department, the
2024 department may partially or entirely disqualify the county from
2025 receiving surtax revenues under this paragraph. A county that
2026 fails to provide timely information waives its right to
2027 challenge the department's determination of the county's share,
2028 if any, of revenues provided under this paragraph.

2029 ~~(5) No discretionary sales surtax or increase or decrease~~
2030 ~~in the rate of any discretionary sales surtax shall take effect~~

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2031 ~~on a date other than January 1. No discretionary sales surtax~~
2032 ~~shall terminate on a day other than December 31.~~

2033 (5)~~(6)~~ The governing body of any county levying a
2034 discretionary sales surtax shall enact an ordinance levying the
2035 surtax in accordance with the procedures described in s.
2036 125.66(2).

2037 (6)~~(7)~~(a) Any adoption, repeal, or rate change of the
2038 surtax by the governing body of any county levying a
2039 discretionary sales surtax or the school board of any county
2040 levying the school capital outlay surtax authorized by s.
2041 212.055(6) is effective on April 1. A county or school board
2042 adopting, repealing, or changing the rate of such surtax shall
2043 notify the department within 10 days after final adoption by
2044 ordinance or referendum of an adoption, repeal, imposition,
2045 termination, or rate change of the surtax, but no later than
2046 October 20 immediately preceding the April 1 ~~November 16~~ ~~prior~~
2047 ~~to the~~ effective date. The notice must specify the time period
2048 during which the surtax will be in effect and the rate and must
2049 include a copy of the ordinance and such other information as
2050 the department requires by rule. Failure to timely provide such
2051 notification to the department shall result in the delay of the
2052 effective date for a period of 1 year.

2053 (b) In addition to the notification required by paragraph
2054 (a), the governing body of any county proposing to levy a
2055 discretionary sales surtax or the school board of any county
2056 proposing to levy the school capital outlay surtax authorized by
2057 s. 212.055(6) shall notify the department by October 1 if the
2058 referendum or consideration of the ordinance that would result
2059 in imposition, termination, or rate change of the surtax is

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2060 scheduled to occur on or after October 1 of that year. Failure
2061 to timely provide such notification to the department shall
2062 result in the delay of the effective date for a period of 1
2063 year.

2064 (c) The department shall provide notice of the adoption,
2065 repeal, or rate change of the surtax to affected dealers by
2066 February 1 immediately preceding the April 1 effective date.

2067 (d) Notwithstanding the date set in an ordinance for the
2068 termination of a surtax, a surtax terminates only on March 31. A
2069 surtax imposed before January 1, 2012, for which an ordinance
2070 provides a different termination date, also terminates on the
2071 March 31 following the termination date established in the
2072 ordinance.

2073 (7)-(8) With respect to any motor vehicle or mobile home of
2074 a class or type that ~~which~~ is required to be registered in this
2075 state, the tax due on a transaction occurring in the taxing
2076 county as herein provided shall be collected from the purchaser
2077 or user incident to the titling and registration of such
2078 property, irrespective of whether such titling or registration
2079 occurs in the taxing county.

2080 (8) The department may certify vendor databases and
2081 purchase, or otherwise make available, a database, or databases,
2082 singly or in combination, which describe boundaries and boundary
2083 changes for all taxing jurisdictions, including a description
2084 and the effective date of a boundary change; provide all sales
2085 and use tax rates by jurisdiction; if the area includes more
2086 than one tax rate in any level of taxing jurisdiction, assign to
2087 each five-digit and nine-digit zip code the proper rate and
2088 jurisdiction and apply the lowest combined rate imposed in the

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2089 zip code area; and may include address-based boundary database
2090 records for assigning taxing jurisdictions and associated tax
2091 rates.

2092 (a) A dealer or certified service provider that collects
2093 and remits the state tax and any local tax imposed by this
2094 chapter shall be held harmless from any tax, interest, and
2095 penalties due solely as a result of relying on erroneous data on
2096 tax rates, boundaries, or taxing jurisdiction assignments
2097 provided by the state if the dealer or certified service
2098 provider exercises due diligence in applying one or more of the
2099 following methods to determine the taxing jurisdiction and tax
2100 rate for a transaction:

2101 1. Employing an electronic database provided by the
2102 department under this subsection; or

2103 2. Employing a state-certified database.

2104 (b) If a dealer or certified service provider is unable to
2105 determine the applicable rate and jurisdiction using an address-
2106 based database record after exercising due diligence, the dealer
2107 or certified service provider may apply the nine-digit zip code
2108 designation applicable to a purchaser.

2109 (c) If a nine-digit zip code designation is not available
2110 for a street address or if a dealer or certified service
2111 provider is unable to determine the nine-digit zip code
2112 designation applicable to a purchase after exercising due
2113 diligence to determine the designation, the dealer or certified
2114 service provider may apply the rate for the five-digit zip code
2115 area.

2116 (d) There is a rebuttable presumption that a dealer or
2117 certified service provider has exercised due diligence if the

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2118 dealer or certified service provider has attempted to determine
2119 the tax rate and jurisdiction by using state-certified software
2120 that makes this assignment from the address and zip code
2121 information applicable to the purchase.

2122 (e) There is a rebuttable presumption that a dealer or
2123 certified service provider has exercised due diligence if the
2124 dealer has attempted to determine the nine-digit zip code
2125 designation by using state-certified software that makes this
2126 designation from the street address and the five-digit zip code
2127 applicable to a purchase.

2128 (f) If a dealer or certified service provider does not use
2129 one of the methods specified in paragraph (a), the dealer or
2130 certified service provider may be held liable to the department
2131 for tax, interest, and penalties that are due for charging and
2132 collecting the incorrect amount of tax.

2133 (9) A purchaser shall be held harmless from tax, interest,
2134 and penalties for failing to pay the correct amount of sales or
2135 use tax due solely as a result of any of the following
2136 circumstances:

2137 (a) The dealer or certified service provider relied on
2138 erroneous data on tax rates, boundaries, or taxing jurisdiction
2139 assignments provided by the department;

2140 (b) A purchaser holding a direct-pay permit relied on
2141 erroneous data on tax rates, boundaries, or taxing jurisdiction
2142 assignments provided by the department; or

2143 (c) A purchaser relied on erroneous data supplied in a
2144 database described in paragraph (a).

2145 (10) A dealer is not liable for failing to collect tax at
2146 the new tax rate if:

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2147 (a) The new rate takes effect within 30 days after the new
 2148 rate is enacted;

2149 (b) The dealer collected the tax at the preceding rate;

2150 (c) The dealer's failure to collect the tax at the new rate
 2151 does not extend beyond 30 days after the enactment of the new
 2152 rate; and

2153 (d) The dealer did not fraudulently fail to collect at the
 2154 new rate or solicit purchasers based on the preceding rate.

2155 Section 10. Paragraphs (i) and (j) of subsection (8) of
 2156 section 212.055, Florida Statutes, are amended to read:

2157 212.055 Discretionary sales surtaxes; legislative intent;
 2158 authorization and use of proceeds.—It is the legislative intent
 2159 that any authorization for imposition of a discretionary sales
 2160 surtax shall be published in the Florida Statutes as a
 2161 subsection of this section, irrespective of the duration of the
 2162 levy. Each enactment shall specify the types of counties
 2163 authorized to levy; the rate or rates which may be imposed; the
 2164 maximum length of time the surtax may be imposed, if any; the
 2165 procedure which must be followed to secure voter approval, if
 2166 required; the purpose for which the proceeds may be expended;
 2167 and such other requirements as the Legislature may provide.
 2168 Taxable transactions and administrative procedures shall be as
 2169 provided in s. 212.054.

2170 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

2171 ~~(i) Surtax collections shall be initiated on January 1 of~~
 2172 ~~the year following a successful referendum in order to coincide~~
 2173 ~~with s. 212.054(5).~~

2174 (i)~~(j)~~ Notwithstanding s. 212.054, if a multicounty
 2175 independent special district created pursuant to chapter 67-764,

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2176 Laws of Florida, levies ad valorem taxes on district property to
2177 fund emergency fire rescue services within the district and is
2178 required by s. 2, Art. VII of the State Constitution to maintain
2179 a uniform ad valorem tax rate throughout the district, the
2180 county may not levy the discretionary sales surtax authorized by
2181 this subsection within the boundaries of the district.

2182 Section 11. Paragraph (c) of subsection (2) and subsections
2183 (3) and (5) of section 212.06, Florida Statutes, are amended to
2184 read:

2185 212.06 Sales, storage, use tax; collectible from dealers;
2186 "dealer" defined; dealers to collect from purchasers;
2187 legislative intent as to scope of tax.-

2188 (2)

2189 (c) The term "dealer" is further defined to mean every
2190 person, as used in this chapter, who sells at retail or who
2191 offers for sale at retail, or who has in his or her possession
2192 for sale at retail; or for use, consumption, or distribution; or
2193 for storage to be used or consumed in this state, tangible
2194 personal property as defined herein, ~~including a retailer who
2195 transacts a mail order sale.~~

2196 (3) (a) Except as provided in paragraph (b), every dealer
2197 making sales, whether within or outside the state, of tangible
2198 personal property for distribution, storage, or use or other
2199 consumption, in this state, shall, at the time of making sales,
2200 collect the tax imposed by this chapter from the purchaser.

2201 (b)1. The following provisions apply to sales of
2202 advertising and promotional direct mail:

2203 a. A purchaser of advertising and promotional direct mail
2204 may provide the seller with:

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2205 (I) A direct pay permit;
2206 (II) A certificate of exemption claiming direct mail; or
2207 (III) Information showing the jurisdictions to which the
2208 advertising and promotional direct mail is to be delivered to
2209 recipients.

2210 b. If the purchaser provides the permit or certificate
2211 referred to in sub-sub-subparagraph a.(I) or sub-sub-
2212 subparagraph a.(II), the seller, in the absence of bad faith, is
2213 relieved of all obligations to collect, pay, or remit any tax on
2214 any transaction involving advertising and promotional direct
2215 mail to which the permit, certificate, or statement applies. The
2216 purchaser shall source the sale to the jurisdictions to which
2217 the advertising and promotional direct mail is to be delivered
2218 to the recipients and shall report and pay any applicable tax
2219 due.

2220 c. If the purchaser provides the seller information showing
2221 the jurisdictions to which the advertising and promotional
2222 direct mail is to be delivered to recipients, the seller shall
2223 source the sale to the jurisdictions to which the advertising
2224 and promotional direct mail is to be delivered and shall collect
2225 and remit the applicable tax. In the absence of bad faith, the
2226 seller is relieved of any further obligation to collect any
2227 additional tax on the sale of advertising and promotional direct
2228 mail if the seller has sourced the sale according to the
2229 delivery information provided by the purchaser.

2230 d. If the purchaser does not provide the seller with any of
2231 the items listed in sub-sub-subparagraph a.(I), sub-sub-
2232 subparagraph a.(II), or sub-sub-subparagraph a.(III), the sale
2233 shall be sourced to the address from which the advertising and

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2234 promotional direct mail was shipped. The state to which the
2235 advertising and promotional direct mail is delivered may
2236 disallow credit for tax paid on sales sourced pursuant to this
2237 subparagraph.

2238 2. The following provisions apply to sales of other direct
2239 mail.

2240 a. Except as otherwise provided in this subparagraph, sales
2241 of other direct mail are sourced to the location indicated by an
2242 address for the purchaser which is available from the business
2243 records of the seller which are maintained in the ordinary
2244 course of the seller's business if use of this address does not
2245 constitute bad faith.

2246 b. A purchaser of other direct mail may provide the seller
2247 with:

2248 (I) A direct pay permit; or

2249 (II) A certificate of exemption claiming direct mail.

2250 c. If the purchaser provides the permit or certificate
2251 referred to in sub-sub-subparagraph b.(I) or sub-sub-
2252 subparagraph b.(II), the seller, in the absence of bad faith, is
2253 relieved of all obligations to collect, pay, or remit any tax on
2254 any transaction involving other direct mail to which the permit,
2255 certificate, or statement applies. Notwithstanding sub-
2256 subparagraph a., the sale shall be sourced to the jurisdictions
2257 to which the other direct mail is to be delivered to the
2258 recipients and the purchaser shall report and pay applicable tax
2259 due.

2260 3. As used in this paragraph, the term:

2261 a. "Advertising and promotional direct mail" means printed
2262 material that meets the definition of direct mail in s. 212.02

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2263 and has the primary purpose of attracting public attention to a
2264 product, person, business, or organization, or to attempt to
2265 sell, popularize, or secure financial support for a product,
2266 person, business, or organization. As used in this sub-
2267 subparagraph, the word "product" means tangible personal
2268 property, a product transferred electronically, or a service.

2269 b. "Other direct mail" means any direct mail that is not
2270 advertising and promotional direct mail, regardless of whether
2271 advertising and promotional direct mail is included in the same
2272 mailing. The term includes, but is not limited to:

2273 (I) Transactional direct mail that contains personal
2274 information specific to the addressee, including, but not
2275 limited to, invoices, bills, statements of account, and payroll
2276 advices;

2277 (II) Any legally required mailings, including, but not
2278 limited to, privacy notices, tax reports, and stockholder
2279 reports; or

2280 (III) Other nonpromotional direct mail delivered to
2281 existing or former shareholders, customers, employees, or agents
2282 including, but not limited to, newsletters and informational
2283 pieces.

2284
2285 The term "other direct mail" does not include the development of
2286 billing information or the provision of any nonincidental data
2287 processing service.

2288 4.a.(I) This section applies to a sale of services only if
2289 the service is an integral part of the production and
2290 distribution of printed material that meets the definition of
2291 direct mail.

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2292 (II) This section does not apply to any transaction that
2293 includes the development of billing information or the provision
2294 of any data processing service that is more than incidental
2295 regardless of whether advertising and promotional direct mail is
2296 included in the same mailing.

2297 b. If a transaction is a bundled transaction that includes
2298 advertising and promotional direct mail, this section applies
2299 only if the primary purpose of the transaction is the sale of
2300 products or services that meet the definition of advertising and
2301 promotional direct mail.

2302 c. This section does not limit any purchaser's:

2303 (I) Obligation for sales or use tax to any state to which
2304 the direct mail is delivered;

2305 (II) Right under local, state, federal, or constitutional
2306 law to a credit for sales or use taxes legally due and paid to
2307 other jurisdictions; or

2308 (III) Right to a refund of sales or use taxes overpaid to
2309 any jurisdiction.

2310 d. This paragraph applies for purposes of uniformly
2311 sourcing direct mail transactions and does not impose
2312 requirements on states regarding the taxation of products that
2313 meet the definition of direct mail and does not apply to sales
2314 for resale or other exemptions. ~~A purchaser of printed materials~~
2315 ~~shall have sole responsibility for the taxes imposed by this~~
2316 ~~chapter on those materials when the printer of the materials~~
2317 ~~delivers them to the United States Postal Service for mailing to~~
2318 ~~persons other than the purchaser located within and outside this~~
2319 ~~state. Printers of materials delivered by mail to persons other~~
2320 ~~than the purchaser located within and outside this state shall~~

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2321 ~~have no obligation or responsibility for the payment or~~
2322 ~~collection of any taxes imposed under this chapter on those~~
2323 ~~materials. However, printers are obligated to collect the taxes~~
2324 ~~imposed by this chapter on printed materials when all, or~~
2325 ~~substantially all, of the materials will be mailed to persons~~
2326 ~~located within this state. For purposes of the printer's tax~~
2327 ~~collection obligation, there is a rebuttable presumption that~~
2328 ~~all materials printed at a facility are mailed to persons~~
2329 ~~located within the same state as that in which the facility is~~
2330 ~~located. A certificate provided by the purchaser to the printer~~
2331 ~~concerning the delivery of the printed materials for that~~
2332 ~~purchase or all purchases shall be sufficient for purposes of~~
2333 ~~rebutting the presumption created herein.~~

2334 ~~5.2.~~ The Department of Revenue is authorized to adopt rules
2335 and forms to administer ~~implement~~ the provisions of this
2336 paragraph.

2337 (5) (a) 1. ~~Except as provided in subparagraph 2., It is not~~
2338 ~~the intention of This chapter~~ does not ~~to~~ levy a tax upon
2339 tangible personal property imported, produced, or manufactured
2340 in this state for export if, ~~provided that tangible personal~~
2341 ~~property may not be considered as being imported, produced, or~~
2342 ~~manufactured for export unless the importer, producer, or~~
2343 ~~manufacturer;~~

2344 a. Delivers the tangible personal property ~~same~~ to a
2345 licensed exporter for exporting or to a common carrier for
2346 shipment outside the state or mails the same by United States
2347 mail to a destination outside the state; ~~or, in the case of~~
2348 ~~aircraft being exported under their own power to a destination~~
2349 ~~outside the continental limits of the United States, by~~

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2350 submission

2351 b. Submits to the department ~~of~~ a duly signed and validated
2352 United States customs declaration, showing the departure of an
2353 ~~the~~ aircraft from the continental United States and; ~~and further~~
2354 ~~with respect to aircraft,~~ the canceled United States registry of
2355 the said aircraft if the aircraft is exported under its own
2356 power to a destination outside the continental United States; or
2357 ~~in the case of~~

2358 c. Submits documentation as required by rule to the
2359 department showing the departure of an aircraft of foreign
2360 registry from the continental United States on which parts and
2361 equipment have been installed. ~~on aircraft of foreign registry,~~
2362 ~~by submission to the department of documentation, the extent of~~
2363 ~~which shall be provided by rule, showing the departure of the~~
2364 ~~aircraft from the continental United States; nor is it the~~
2365 ~~intention of this chapter to levy a tax on any sale which~~

2366 2. This chapter does not levy a tax on the sale or use of
2367 tangible personal property that the state is prohibited from
2368 taxing under the Constitution or laws of the United States.

2369
2370 Every retail sale made to a person physically present at the
2371 time of sale shall be presumed to have been delivered in this
2372 state.

2373 ~~2.a. Notwithstanding subparagraph 1., a tax is levied on~~
2374 ~~each sale of tangible personal property to be transported to a~~
2375 ~~cooperating state as defined in sub-subparagraph c., at the rate~~
2376 ~~specified in sub-subparagraph d. However, a Florida dealer will~~
2377 ~~be relieved from the requirements of collecting taxes pursuant~~
2378 ~~to this subparagraph if the Florida dealer obtains from the~~

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2379 ~~purchaser an affidavit setting forth the purchaser's name,~~
2380 ~~address, state taxpayer identification number, and a statement~~
2381 ~~that the purchaser is aware of his or her state's use tax laws,~~
2382 ~~is a registered dealer in Florida or another state, or is~~
2383 ~~purchasing the tangible personal property for resale or is~~
2384 ~~otherwise not required to pay the tax on the transaction. The~~
2385 ~~department may, by rule, provide a form to be used for the~~
2386 ~~purposes set forth herein.~~

2387 ~~b. For purposes of this subparagraph, "a cooperating state"~~
2388 ~~is one determined by the executive director of the department to~~
2389 ~~cooperate satisfactorily with this state in collecting taxes on~~
2390 ~~mail order sales. No state shall be so determined unless it~~
2391 ~~meets all the following minimum requirements:~~

2392 ~~(I) It levies and collects taxes on mail order sales of~~
2393 ~~property transported from that state to persons in this state,~~
2394 ~~as described in s. 212.0596, upon request of the department.~~

2395 ~~(II) The tax so collected shall be at the rate specified in~~
2396 ~~s. 212.05, not including any local option or tourist or~~
2397 ~~convention development taxes collected pursuant to s. 125.0104~~
2398 ~~or this chapter.~~

2399 ~~(III) Such state agrees to remit to the department all~~
2400 ~~taxes so collected no later than 30 days from the last day of~~
2401 ~~the calendar quarter following their collection.~~

2402 ~~(IV) Such state authorizes the department to audit dealers~~
2403 ~~within its jurisdiction who make mail order sales that are the~~
2404 ~~subject of s. 212.0596, or makes arrangements deemed adequate by~~
2405 ~~the department for auditing them with its own personnel.~~

2406 ~~(V) Such state agrees to provide to the department records~~
2407 ~~obtained by it from retailers or dealers in such state showing~~

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2408 ~~delivery of tangible personal property into this state upon~~
2409 ~~which no sales or use tax has been paid in a manner similar to~~
2410 ~~that provided in sub-subparagraph g.~~

2411 ~~e. For purposes of this subparagraph, "sales of tangible~~
2412 ~~personal property to be transported to a cooperating state"~~
2413 ~~means mail order sales to a person who is in the cooperating~~
2414 ~~state at the time the order is executed, from a dealer who~~
2415 ~~receives that order in this state.~~

2416 ~~d. The tax levied by sub-subparagraph a. shall be at the~~
2417 ~~rate at which such a sale would have been taxed pursuant to the~~
2418 ~~cooperating state's tax laws if consummated in the cooperating~~
2419 ~~state by a dealer and a purchaser, both of whom were physically~~
2420 ~~present in that state at the time of the sale.~~

2421 ~~e. The tax levied by sub-subparagraph a., when collected,~~
2422 ~~shall be held in the State Treasury in trust for the benefit of~~
2423 ~~the cooperating state and shall be paid to it at a time agreed~~
2424 ~~upon between the department, acting for this state, and the~~
2425 ~~cooperating state or the department or agency designated by it~~
2426 ~~to act for it; however, such payment shall in no event be made~~
2427 ~~later than 30 days from the last day of the calendar quarter~~
2428 ~~after the tax was collected. Funds held in trust for the benefit~~
2429 ~~of a cooperating state shall not be subject to the service~~
2430 ~~charges imposed by s. 215.20.~~

2431 ~~f. The department is authorized to perform such acts and to~~
2432 ~~provide such cooperation to a cooperating state with reference~~
2433 ~~to the tax levied by sub-subparagraph a. as is required of the~~
2434 ~~cooperating state by sub-subparagraph b.~~

2435 ~~g. In furtherance of this act, dealers selling tangible~~
2436 ~~personal property for delivery in another state shall make~~

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2437 ~~available to the department, upon request of the department,~~
2438 ~~records of all tangible personal property so sold. Such records~~
2439 ~~shall include a description of the property, the name and~~
2440 ~~address of the purchaser, the name and address of the person to~~
2441 ~~whom the property was sent, the purchase price of the property,~~
2442 ~~information regarding whether sales tax was paid in this state~~
2443 ~~on the purchase price, and such other information as the~~
2444 ~~department may by rule prescribe.~~

2445 (b)1. Notwithstanding the provisions of paragraph (a), it
2446 is not the intention of this chapter to levy a tax on the sale
2447 of tangible personal property to a nonresident dealer who does
2448 not hold a Florida sales tax registration, provided such
2449 nonresident dealer furnishes the seller a statement declaring
2450 that the tangible personal property will be transported outside
2451 this state by the nonresident dealer for resale and for no other
2452 purpose. The statement shall include, but not be limited to, the
2453 nonresident dealer's name, address, applicable passport or visa
2454 number, arrival-departure card number, and evidence of authority
2455 to do business in the nonresident dealer's home state or
2456 country, such as his or her business name and address,
2457 occupational license number, if applicable, or any other
2458 suitable requirement. The statement shall be signed by the
2459 nonresident dealer and shall include the following sentence:
2460 "Under penalties of perjury, I declare that I have read the
2461 foregoing, and the facts alleged are true to the best of my
2462 knowledge and belief."

2463 2. The burden of proof of subparagraph 1. rests with the
2464 seller, who must retain the proper documentation to support the
2465 exempt sale. The exempt transaction is subject to verification

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2466 by the department.

2467 (c) Notwithstanding the provisions of paragraph (a), it is
2468 not the intention of this chapter to levy a tax on the sale by a
2469 printer to a nonresident print purchaser of material printed by
2470 that printer for that nonresident print purchaser when the print
2471 purchaser does not furnish the printer a resale certificate
2472 containing a sales tax registration number but does furnish to
2473 the printer a statement declaring that such material will be
2474 resold by the nonresident print purchaser.

2475 Section 12. Paragraph (c) of subsection (1) and subsection
2476 (2) of section 212.07, Florida Statutes, are amended, and
2477 subsection (10) is added to that section, to read:

2478 212.07 Sales, storage, use tax; tax added to purchase
2479 price; dealer not to absorb; liability of purchasers who cannot
2480 prove payment of the tax; penalties; general exemptions.-

2481 (1)

2482 (c) Unless the purchaser of tangible personal property that
2483 is incorporated into tangible personal property manufactured,
2484 produced, compounded, processed, or fabricated for one's own use
2485 and subject to the tax imposed under s. 212.06(1)(b) or is
2486 purchased for export under s. 212.06(5)(a) ~~s. 212.06(5)(a)1.~~
2487 extends a certificate in compliance with the rules of the
2488 department, the dealer shall himself or herself be liable for
2489 and pay the tax.

2490 (2) A dealer shall, as far as practicable, add the amount
2491 of the tax imposed under this chapter to the sale price, and the
2492 amount of the tax shall be separately stated as Florida tax on
2493 any charge ticket, sales slip, invoice, or other tangible
2494 evidence of sale. Such tax constitutes ~~shall constitute~~ a part

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2495 of the ~~such~~ price, charge, or proof of sale and is ~~which shall~~
2496 ~~be~~ a debt from the purchaser or consumer to the dealer, until
2497 paid. This debt is, ~~and shall be~~ recoverable at law in the same
2498 manner as other debts. If ~~Where~~ it is impracticable, due to the
2499 nature of the business practices within an industry, to
2500 separately state Florida tax on any charge ticket, sales slip,
2501 invoice, or other tangible evidence of sale, the department may
2502 establish by rule a remittance ~~an effective~~ tax rate for such
2503 industry. The department may also amend this ~~effective tax~~ rate
2504 as the industry's pricing or practices change. In addition to
2505 other methods, the department may use telephone, electronic
2506 mail, facsimile, or other electronic means to provide notice of
2507 such rate and any change. Except as otherwise specifically
2508 provided, any dealer who neglects, fails, or refuses to collect
2509 the tax herein provided upon a ~~any, every, and all~~ retail sale
2510 of tangible personal property ~~sales~~ made by the dealer or the
2511 dealer's agent ~~agents~~ or employee ~~employees~~ of tangible
2512 personal property or services ~~which are subject to the tax~~
2513 ~~imposed by this chapter shall be~~ liable for and shall pay the
2514 tax himself or herself.

2515 (10) (a) The executive director is authorized to maintain
2516 and publish a taxability matrix in a downloadable format.

2517 (b) The state shall provide notice of changes to the
2518 taxability of the products or services listed in the taxability
2519 matrix. In addition to other methods, the department may use
2520 telephone, electronic mail, facsimile, or other electronic means
2521 to provide notice of such changes.

2522 (c) A dealer or certified service provider who collects and
2523 remits the state and local tax imposed by this chapter shall be

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2524 held harmless from tax, interest, and penalties for having
2525 charged and collected the incorrect amount of sales or use tax
2526 due solely as a result of relying on erroneous data provided by
2527 the state in the taxability matrix.

2528 (d) A purchaser shall be held harmless from penalties for
2529 having failed to pay the correct amount of sales or use tax due
2530 solely as a result of any of the following circumstances:

2531 1. The dealer or certified service provider relied on
2532 erroneous data provided by the state in the taxability matrix
2533 completed by the state;

2534 2. A purchaser relied on erroneous data provided by the
2535 state in the taxability matrix completed by the state; or

2536 3. A purchaser holding a direct-pay permit relied on
2537 erroneous data provided by the state in the taxability matrix
2538 completed by the state.

2539 (e) A purchaser shall be held harmless from tax and
2540 interest for having failed to pay the correct amount of sales or
2541 use tax due solely as a result of the state's erroneous
2542 classification in the taxability matrix of terms included in the
2543 library of definitions as "taxable" or "exempt," "included in
2544 sales price" or "excluded from sales price," or "included in the
2545 definition" or "excluded from the definition."

2546 Section 13. Subsections (1) and (2), paragraph (g) of
2547 subsection (5), subsection (14), and paragraphs (b) and (c) of
2548 subsection (17) of section 212.08, Florida Statutes, are amended
2549 to read:

2550 212.08 Sales, rental, use, consumption, distribution, and
2551 storage tax; specified exemptions.—The sale at retail, the
2552 rental, the use, the consumption, the distribution, and the

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2553 storage to be used or consumed in this state of the following
2554 are hereby specifically exempt from the tax imposed by this
2555 chapter.

2556 (1) EXEMPTIONS; GENERAL GROCERIES.—

2557 (a) Food and food ingredients ~~products~~ for human
2558 consumption are exempt from the tax imposed by this chapter.

2559 (b) For the purpose of this chapter, as used in this
2560 subsection, the term "food and food ingredients ~~products~~" means
2561 substances, whether in liquid, concentrated, solid, frozen,
2562 dried, or dehydrated form, which are sold for ingestion or
2563 chewing by humans and are consumed for their taste or
2564 nutritional value ~~edible commodities, whether processed, cooked,~~
2565 ~~raw, canned, or in any other form, which are generally regarded~~
2566 ~~as food~~. This includes, but is not limited to, all of the
2567 following:

2568 ~~1. Cereals and cereal products, baked goods, oleomargarine,~~
2569 ~~meat and meat products, fish and seafood products, frozen foods~~
2570 ~~and dinners, poultry, eggs and egg products, vegetables and~~
2571 ~~vegetable products, fruit and fruit products, spices, salt,~~
2572 ~~sugar and sugar products, milk and dairy products, and products~~
2573 ~~intended to be mixed with milk.~~

2574 ~~2. Natural fruit or vegetable juices or their concentrates~~
2575 ~~or reconstituted natural concentrated fruit or vegetable juices,~~
2576 ~~whether frozen or unfrozen, dehydrated, powdered, granulated,~~
2577 ~~sweetened or unsweetened, seasoned with salt or spice, or~~
2578 ~~unseasoned; coffee, coffee substitutes, or cocoa; and tea,~~
2579 ~~unless it is sold in a liquid form.~~

2580 1.3. Bakery products sold by bakeries, pastry shops, or
2581 like establishments, if sold without eating utensils. For

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2582 purposes of this subparagraph, bakery products include bread,
2583 rolls, buns, biscuits, bagels, croissants, pastries, doughnuts,
2584 Danish pastries, cakes, tortes, pies, tarts, muffins, bars,
2585 cookies, and tortillas ~~that do not have eating facilities.~~

2586 2. Dietary supplements. The term "dietary supplements"
2587 means any nontobacco product intended to supplement the diet
2588 which contains one or more of the following dietary ingredients:
2589 a vitamin; a mineral; an herb or other botanical; an amino acid;
2590 a dietary substance for use by humans to supplement the diet by
2591 increasing the total dietary intake; or a concentrate,
2592 metabolite, constituent, extract, or combination of any
2593 ingredient described in this subparagraph which is intended for
2594 ingestion in tablet, capsule, powder, softgel, gelcap, or liquid
2595 form or, if not intended for ingestion in such a form, is not
2596 represented as conventional food and is not represented for use
2597 as a sole item of a meal or of the diet, and which is required
2598 to be labeled as a dietary supplement, identifiable by the
2599 supplemental facts panel found on the label and as required
2600 pursuant to 21 C.F.R. s. 101.36.

2601 3. Bottled water. As used in this subparagraph, the term
2602 "bottled water" means water that is placed in a safety-sealed
2603 container or package for human consumption. Bottled water is
2604 calorie free and does not contain sweeteners or other additives,
2605 except that it may contain:

- 2606 a. Antimicrobial agents;
- 2607 b. Fluoride;
- 2608 c. Carbonation;
- 2609 d. Vitamins, minerals, and electrolytes;
- 2610 e. Oxygen;

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2611 f. Preservatives; and

2612 g. Only those flavors, extracts, or essences derived from a
2613 spice or fruit.

2614

2615 The term "bottled water" includes water that is delivered to the
2616 purchaser in a reusable container that is not sold with the
2617 water.

2618 (c) The exemption provided by this subsection does not
2619 apply to:

2620 ~~1. Food products sold as meals for consumption on or off~~
2621 ~~the premises of the dealer.~~

2622 ~~2. Food products furnished, prepared, or served for~~
2623 ~~consumption at tables, chairs, or counters or from trays,~~
2624 ~~glasses, dishes, or other tableware, whether provided by the~~
2625 ~~dealer or by a person with whom the dealer contracts to furnish,~~
2626 ~~prepare, or serve food products to others.~~

2627 ~~3. Food products ordinarily sold for immediate consumption~~
2628 ~~on the seller's premises or near a location at which parking~~
2629 ~~facilities are provided primarily for the use of patrons in~~
2630 ~~consuming the products purchased at the location, even though~~
2631 ~~such products are sold on a "take out" or "to go" order and are~~
2632 ~~actually packaged or wrapped and taken from the premises of the~~
2633 ~~dealer.~~

2634 ~~4. Sandwiches sold ready for immediate consumption on or~~
2635 ~~off the seller's premises.~~

2636 ~~5. Food products sold ready for immediate consumption~~
2637 ~~within a place, the entrance to which is subject to an admission~~
2638 ~~charge.~~

2639 1.6. Food and food ingredients sold as prepared food. The

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2640 term "prepared food" means:

2641 a. Food sold in a heated state or heated by the dealer;

2642 b. Two or more food ingredients mixed or combined by the
2643 dealer for sale as a single item; or

2644 c. Food sold with eating utensils provided by the dealer,
2645 including plates, knives, forks, spoons, glasses, cups, napkins,
2646 or straws. A plate does not include a container or packaging
2647 used to transport food. Prepared food does not include food that
2648 is only cut, repackaged, or pasteurized by the dealer, eggs,
2649 fish, meat, poultry, and foods that contain these raw animal
2650 foods and require cooking by the consumer, as recommended by the
2651 Food and Drug Administration in chapter 3, part 4011 of its food
2652 code, to prevent food-borne illness. ~~Food products sold as hot~~
2653 ~~prepared food products.~~

2654 2.7. ~~Soft drinks, including, but not limited to, any~~
2655 ~~nonalcoholic beverage, any preparation or beverage commonly~~
2656 ~~referred to as a "soft drink," or any noncarbonated drink made~~
2657 ~~from milk derivatives or tea, if sold in cans or similar~~
2658 ~~containers. The term "soft drinks" means nonalcoholic beverages~~
2659 ~~that contain natural or artificial sweeteners. Soft drinks do~~
2660 ~~not include beverages that contain milk or milk products, soy,~~
2661 ~~rice, or similar milk substitutes, or greater than 50 percent of~~
2662 ~~vegetable or fruit juice by volume.~~

2663 ~~8. Ice cream, frozen yogurt, and similar frozen dairy or~~
2664 ~~nondairy products in cones, small cups, or pints, popsicles,~~
2665 ~~frozen fruit bars, or other novelty items, whether or not sold~~
2666 ~~separately.~~

2667 ~~9. Food that is prepared, whether on or off the premises,~~
2668 ~~and sold for immediate consumption. This does not apply to food~~

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2669 ~~prepared off the premises and sold in the original sealed~~
2670 ~~container, or the slicing of products into smaller portions.~~

2671 3.10. Food and food ingredients products sold through a
2672 vending machine, ~~pushcart, motor vehicle, or any other form of~~
2673 ~~vehicle.~~

2674 4.11. Candy and any similar product regarded as candy or
2675 ~~confection, based on its normal use, as indicated on the label~~
2676 ~~or advertising thereof. The term "candy" means a preparation of~~
2677 sugar, honey, or other natural or artificial sweeteners in
2678 combination with chocolate, fruits, nuts, or other ingredients
2679 or flavorings in the form of bars, drops, or pieces. Candy does
2680 not include any preparation that contains flour and does not
2681 require refrigeration.

2682 5. Tobacco.

2683 ~~12. Bakery products sold by bakeries, pastry shops, or like~~
2684 ~~establishments having eating facilities, except when sold for~~
2685 ~~consumption off the seller's premises.~~

2686 ~~13. Food products served, prepared, or sold in or by~~
2687 ~~restaurants, lunch counters, cafeterias, hotels, taverns, or~~
2688 ~~other like places of business.~~

2689 ~~(d) As used in this subsection, the term:~~

2690 ~~1. "For consumption off the seller's premises" means that~~
2691 ~~the food or drink is intended by the customer to be consumed at~~
2692 ~~a place away from the dealer's premises.~~

2693 ~~2. "For consumption on the seller's premises" means that~~
2694 ~~the food or drink sold may be immediately consumed on the~~
2695 ~~premises where the dealer conducts his or her business. In~~
2696 ~~determining whether an item of food is sold for immediate~~
2697 ~~consumption, the customary consumption practices prevailing at~~

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2698 ~~the selling facility shall be considered.~~

2699 ~~3. "Premises" shall be construed broadly, and means, but is~~
2700 ~~not limited to, the lobby, aisle, or auditorium of a theater;~~
2701 ~~the seating, aisle, or parking area of an arena, rink, or~~
2702 ~~stadium; or the parking area of a drive-in or outdoor theater.~~
2703 ~~The premises of a caterer with respect to catered meals or~~
2704 ~~beverages shall be the place where such meals or beverages are~~
2705 ~~served.~~

2706 ~~4. "Hot prepared food products" means those products,~~
2707 ~~items, or components which have been prepared for sale in a~~
2708 ~~heated condition and which are sold at any temperature that is~~
2709 ~~higher than the air temperature of the room or place where they~~
2710 ~~are sold. "Hot prepared food products," for the purposes of this~~
2711 ~~subsection, includes a combination of hot and cold food items or~~
2712 ~~components where a single price has been established for the~~
2713 ~~combination and the food products are sold in such combination,~~
2714 ~~such as a hot meal, a hot specialty dish or serving, or a hot~~
2715 ~~sandwich or hot pizza, including cold components or side items.~~

2716 (d)~~(e)~~1. Food or drinks not exempt under paragraphs (a),
2717 (b), and (c), ~~and (d)~~ are exempt, notwithstanding those
2718 paragraphs, when purchased with food coupons or Special
2719 Supplemental Food Program for Women, Infants, and Children
2720 vouchers issued under authority of federal law.

2721 2. This paragraph is effective only while federal law
2722 prohibits a state's participation in the federal food coupon
2723 program or Special Supplemental Food Program for Women, Infants,
2724 and Children if there is an official determination that state or
2725 local sales taxes are collected within that state on purchases
2726 of food or drinks with such coupons.

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2727 3. This paragraph does ~~shall~~ not apply to any food or
2728 drinks on which federal law allows ~~shall permit~~ sales taxes
2729 without penalty, such as termination of the state's
2730 participation.

2731 (e) ~~(f)~~ The application of the tax on a package that
2732 contains exempt food products and taxable nonfood products
2733 depends upon the essential character of the complete package.

2734 1. If the taxable items represent more than 25 percent of
2735 the cost of the complete package and a single charge is made,
2736 the entire sales price of the package is taxable. If the taxable
2737 items are separately stated, the separate charge for the taxable
2738 items is subject to tax.

2739 2. If the taxable items represent 25 percent or less of the
2740 cost of the complete package and a single charge is made, the
2741 entire sales price of the package is exempt from tax. The person
2742 preparing the package is liable for the tax on the cost of the
2743 taxable items going into the complete package. If the taxable
2744 items are separately stated, the separate charge is subject to
2745 tax.

2746 (f) Dietary supplements that are sold as prepared food are
2747 not exempt.

2748 (2) EXEMPTIONS; MEDICAL.—

2749 (a) There shall be exempt from the tax imposed by this
2750 chapter:

2751 1. Drugs dispensed according to an individual prescription
2752 or prescriptions.

2753 2. Mobility-enhancing equipment or prosthetic devices ~~any~~
2754 ~~medical products and supplies or medicine~~ dispensed according to
2755 an individual prescription or prescriptions or durable medical

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2756 equipment. ~~written by a prescriber authorized by law to~~
2757 ~~prescribe medicinal drugs;~~

2758 3. Hypodermic needles. ~~hypodermic syringes;~~

2759 4. Chemical compounds and test kits used for the diagnosis
2760 or treatment of human disease, illness, or injury and intended
2761 for one-time use. ~~;~~

2762 5. Over-the-counter drugs ~~and common household remedies~~
2763 ~~recommended and generally sold for internal or external use in~~
2764 ~~the cure, mitigation, treatment, or prevention of illness or~~
2765 ~~disease in human beings, but not including grooming and hygiene~~
2766 products.

2767 6. Band-aids, gauze, bandages, and adhesive tape.

2768 7. Funerals. However, tangible personal property used by
2769 funeral directors in their business is taxable. ~~cosmetics or~~
2770 ~~toilet articles, notwithstanding the presence of medicinal~~
2771 ~~ingredients therein, according to a list prescribed and approved~~
2772 ~~by the Department of Health, which list shall be certified to~~
2773 ~~the Department of Revenue from time to time and included in the~~
2774 ~~rules promulgated by the Department of Revenue. There shall also~~
2775 ~~be exempt from the tax imposed by this chapter artificial eyes~~
2776 ~~and limbs; orthopedic shoes; prescription eyeglasses and items~~
2777 ~~incidental thereto or which become a part thereof; dentures;~~
2778 ~~hearing aids; crutches; prosthetic and orthopedic appliances;~~
2779 ~~and funerals. In addition, any~~

2780 8. Items intended for one-time use which transfer essential
2781 optical characteristics to contact lenses. ~~shall be exempt from~~
2782 ~~the tax imposed by this chapter;~~ However, this exemption applies
2783 shall apply only after \$100,000 of the tax imposed by this
2784 chapter on such items has been paid in any calendar year by a

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2785 taxpayer who claims the exemption in such year. ~~Funeral~~
2786 ~~directors shall pay tax on all tangible personal property used~~
2787 ~~by them in their business.~~

2788 (b) For the purposes of this subsection, the term:

2789 1. "Drug" means a compound, substance, or preparation, and
2790 any component of a compound, substance, or preparation, other
2791 than food and food ingredients, dietary supplements, and
2792 alcoholic beverages, which is:

2793 a. Recognized in the official United States Pharmacopoeia,
2794 official Homeopathic Pharmacopoeia of the United States, or
2795 official National Formulary, or the supplement to any of them;

2796 b. Intended for use in the diagnosis, cure, mitigation,
2797 treatment, or prevention of disease; or

2798 c. Intended to affect the structure or any function of the
2799 body.

2800 2. "Durable medical equipment" means equipment, including
2801 repair and replacement parts to such equipment, but excluding
2802 mobility-enhancing equipment, which can withstand repeated use,
2803 is primarily and customarily used to serve a medical purpose,
2804 generally is not useful to a person in the absence of illness or
2805 injury, and is not worn on or in the body.

2806 3. "Mobility-enhancing equipment" means equipment,
2807 including repair and replacement parts to such equipment, but
2808 excluding durable medical equipment, which:

2809 a. Is primarily and customarily used to provide or increase
2810 the ability to move from one place to another and which is
2811 appropriate for use in a home or a motor vehicle.

2812 b. Is not generally used by persons with normal mobility.

2813 c. Does not include any motor vehicle or any equipment on a

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2814 motor vehicle normally provided by a motor vehicle manufacturer.

2815 4. "Prosthetic device" means a replacement, corrective, or
2816 supportive device, including repair or replacement parts to such
2817 equipment, which is worn on or in the body to:

2818 a. Artificially replace a missing portion of the body;

2819 b. Prevent or correct physical deformity or malfunction; or

2820 c. Support a weak or deformed portion of the body.

2821 5. "Grooming and hygiene products" mean soaps and cleaning
2822 solutions, shampoo, toothpaste, mouthwash, antiperspirants, and
2823 suntan lotions and screens, regardless of whether the items meet
2824 the definition of an over-the-counter drug.

2825 6. "Over-the-counter drug" means a drug provided in
2826 packaging that contains a label that identifies the product as a
2827 drug as required by 21 C.F.R. s. 201.66. An over-the-counter
2828 drug label includes a drug-facts panel or a statement of the
2829 active ingredients and a list of the ingredients contained in
2830 the compound, substance, or preparation. ~~"Prosthetic and~~
2831 ~~orthopedic appliances" means any apparatus, instrument, device,~~
2832 ~~or equipment used to replace or substitute for any missing part~~
2833 ~~of the body, to alleviate the malfunction of any part of the~~
2834 ~~body, or to assist any disabled person in leading a normal life~~
2835 ~~by facilitating such person's mobility. Such apparatus,~~
2836 ~~instrument, device, or equipment shall be exempted according to~~
2837 ~~an individual prescription or prescriptions written by a~~
2838 ~~physician licensed under chapter 458, chapter 459, chapter 460,~~
2839 ~~chapter 461, or chapter 466, or according to a list prescribed~~
2840 ~~and approved by the Department of Health, which list shall be~~
2841 ~~certified to the Department of Revenue from time to time and~~
2842 ~~included in the rules promulgated by the Department of Revenue.~~

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2843 2. ~~"Cosmetics" means articles intended to be rubbed,~~
2844 ~~poured, sprinkled, or sprayed on, introduced into, or otherwise~~
2845 ~~applied to the human body for cleansing, beautifying, promoting~~
2846 ~~attractiveness, or altering the appearance and also means~~
2847 ~~articles intended for use as a compound of any such articles,~~
2848 ~~including, but not limited to, cold creams, suntan lotions,~~
2849 ~~makeup, and body lotions.~~

2850 3. ~~"Toilet articles" means any article advertised or held~~
2851 ~~out for sale for grooming purposes and those articles that are~~
2852 ~~customarily used for grooming purposes, regardless of the name~~
2853 ~~by which they may be known, including, but not limited to, soap,~~
2854 ~~toothpaste, hair spray, shaving products, colognes, perfumes,~~
2855 ~~shampoo, deodorant, and mouthwash.~~

2856 7.4. "Prescription" means an order, formula, or recipe
2857 issued in any form of oral, written, electronic, or other means
2858 of transmission by a practitioner licensed under chapter 458,
2859 chapter 459, chapter 460, chapter 461, or chapter 466. The term
2860 includes an orally transmitted order by the lawfully designated
2861 agent of the practitioner. The term also includes an order
2862 written or transmitted by a practitioner licensed to practice in
2863 a jurisdiction other than this state, but only if the pharmacist
2864 called upon to dispense the order determines, in the exercise of
2865 his or her professional judgment, that the order is valid and
2866 necessary for the treatment of a chronic or recurrent illness.
2867 ~~includes any order for drugs or medicinal supplies written or~~
2868 ~~transmitted by any means of communication by a duly licensed~~
2869 ~~practitioner authorized by the laws of the state to prescribe~~
2870 ~~such drugs or medicinal supplies and intended to be dispensed by~~
2871 ~~a pharmacist. The term also includes an orally transmitted order~~

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2872 ~~by the lawfully designated agent of such practitioner. The term~~
2873 ~~also includes an order written or transmitted by a practitioner~~
2874 ~~licensed to practice in a jurisdiction other than this state,~~
2875 ~~but only if the pharmacist called upon to dispense such order~~
2876 ~~determines, in the exercise of his or her professional judgment,~~
2877 ~~that the order is valid and necessary for the treatment of a~~
2878 ~~chronic or recurrent illness. The term also includes a~~
2879 ~~pharmacist's order for a product selected from the formulary~~
2880 ~~created pursuant to s. 465.186. A prescription may be retained~~
2881 ~~in written form, or the pharmacist may cause it to be recorded~~
2882 ~~in a data processing system, provided that such order can be~~
2883 ~~produced in printed form upon lawful request.~~

2884 (c) Chlorine is ~~shall~~ not be exempt from the tax imposed by
2885 this chapter when used for the treatment of water in swimming
2886 pools.

2887 ~~(d) Lithotripters are exempt.~~

2888 (d) ~~(e)~~ Human organs are exempt.

2889 ~~(f) Sales of drugs to or by physicians, dentists,~~
2890 ~~veterinarians, and hospitals in connection with medical~~
2891 ~~treatment are exempt.~~

2892 ~~(g) Medical products and supplies used in the cure,~~
2893 ~~mitigation, alleviation, prevention, or treatment of injury,~~
2894 ~~disease, or incapacity which are temporarily or permanently~~
2895 ~~incorporated into a patient or client by a practitioner of the~~
2896 ~~healing arts licensed in the state are exempt.~~

2897 ~~(h) The purchase by a veterinarian of commonly recognized~~
2898 ~~substances possessing curative or remedial properties which are~~
2899 ~~ordered and dispensed as treatment for a diagnosed health~~
2900 ~~disorder by or on the prescription of a duly licensed~~

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2901 ~~veterinarian, and which are applied to or consumed by animals~~
2902 ~~for alleviation of pain or the cure or prevention of sickness,~~
2903 ~~disease, or suffering are exempt. Also exempt are the purchase~~
2904 ~~by a veterinarian of antiseptics, absorbent cotton, gauze for~~
2905 ~~bandages, lotions, vitamins, and worm remedies.~~

2906 ~~(i) X-ray opaques, also known as opaque drugs and~~
2907 ~~radiopaque, such as the various opaque dyes and barium sulphate,~~
2908 ~~when used in connection with medical X rays for treatment of~~
2909 ~~bodies of humans and animals, are exempt.~~

2910 ~~(e)-(j)~~ Parts, special attachments, special lettering, and
2911 other like items that are added to or attached to tangible
2912 personal property so that a handicapped person can use them are
2913 exempt when such items are purchased by a person pursuant to an
2914 individual prescription.

2915 ~~(f)-(k)~~ This subsection shall be strictly construed and
2916 enforced.

2917 (5) EXEMPTIONS; ACCOUNT OF USE.—

2918 (g) *Building materials used in the rehabilitation of real*
2919 *property located in an enterprise zone.—*

2920 1. Building materials used in the rehabilitation of real
2921 property located in an enterprise zone are exempt from the tax
2922 imposed by this chapter upon an affirmative showing to the
2923 satisfaction of the department that the items have been used for
2924 the rehabilitation of real property located in an enterprise
2925 zone. Except as provided in subparagraph 2., this exemption
2926 inures to the owner, lessee, or lessor at the time the real
2927 property is rehabilitated, but only through a refund of
2928 previously paid taxes. To receive a refund pursuant to this
2929 paragraph, the owner, lessee, or lessor of the rehabilitated

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2930 real property must file an application under oath with the
2931 governing body or enterprise zone development agency having
2932 jurisdiction over the enterprise zone where the business is
2933 located, as applicable. A single application for a refund may be
2934 submitted for multiple, contiguous parcels that were part of a
2935 single parcel that was divided as part of the rehabilitation of
2936 the property. All other requirements of this paragraph apply to
2937 each parcel on an individual basis. The application must
2938 include:

2939 a. The name and address of the person claiming the refund.

2940 b. An address and assessment roll parcel number of the
2941 rehabilitated real property for which a refund of previously
2942 paid taxes is being sought.

2943 c. A description of the improvements made to accomplish the
2944 rehabilitation of the real property.

2945 d. A copy of a valid building permit issued by the county
2946 or municipal building department for the rehabilitation of the
2947 real property.

2948 e. A sworn statement, under penalty of perjury, from the
2949 general contractor licensed in this state with whom the
2950 applicant contracted to make the improvements necessary to
2951 rehabilitate the real property, which lists the building
2952 materials used to rehabilitate the real property, the actual
2953 cost of the building materials, and the amount of sales tax paid
2954 in this state on the building materials. If a general contractor
2955 was not used, the applicant, not a general contractor, shall
2956 make the sworn statement required by this sub-subparagraph.
2957 Copies of the invoices which ~~that~~ evidence the purchase of the
2958 building materials used in the rehabilitation and the payment of

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2959 sales tax on the building materials must be attached to the
2960 sworn statement provided by the general contractor or by the
2961 applicant. Unless the actual cost of building materials used in
2962 the rehabilitation of real property and the payment of sales
2963 taxes is documented by a general contractor or by the applicant
2964 in this manner, the cost of the building materials is deemed to
2965 be an amount equal to 40 percent of the increase in assessed
2966 value for ad valorem tax purposes.

2967 f. The identifying number assigned pursuant to s. 290.0065
2968 to the enterprise zone in which the rehabilitated real property
2969 is located.

2970 g. A certification by the local building code inspector
2971 that the improvements necessary to rehabilitate the real
2972 property are substantially completed.

2973 h. A statement of whether the business is a small business
2974 as defined by s. 288.703(1).

2975 i. If applicable, the name and address of each permanent
2976 employee of the business, including, for each employee who is a
2977 resident of an enterprise zone, the identifying number assigned
2978 pursuant to s. 290.0065 to the enterprise zone in which the
2979 employee resides.

2980 2. This exemption inures to a municipality, county, other
2981 governmental unit or agency, or nonprofit community-based
2982 organization through a refund of previously paid taxes if the
2983 building materials used in the rehabilitation are paid for from
2984 the funds of a community development block grant, State Housing
2985 Initiatives Partnership Program, or similar grant or loan
2986 program. To receive a refund, a municipality, county, other
2987 governmental unit or agency, or nonprofit community-based

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2988 organization must file an application that includes the same
2989 information required in subparagraph 1. In addition, the
2990 application must include a sworn statement signed by the chief
2991 executive officer of the municipality, county, other
2992 governmental unit or agency, or nonprofit community-based
2993 organization seeking a refund which states that the building
2994 materials for which a refund is sought were funded by a
2995 community development block grant, State Housing Initiatives
2996 Partnership Program, or similar grant or loan program.

2997 3. Within 10 working days after receipt of an application,
2998 the governing body or enterprise zone development agency shall
2999 review the application to determine if it contains all the
3000 information required by subparagraph 1. or subparagraph 2. and
3001 meets the criteria set out in this paragraph. The governing body
3002 or agency shall certify all applications that contain the
3003 required information and are eligible to receive a refund. If
3004 applicable, the governing body or agency shall also certify if
3005 20 percent of the employees of the business that applies for the
3006 exemption are residents of an enterprise zone, excluding
3007 temporary and part-time employees. The certification must be in
3008 writing, and a copy of the certification shall be transmitted to
3009 the executive director of the department. The applicant is
3010 responsible for forwarding a certified application to the
3011 department within the time specified in subparagraph 4.

3012 4. An application for a refund must be submitted to the
3013 department within 6 months after the rehabilitation of the
3014 property is deemed to be substantially completed by the local
3015 building code inspector or by November 1 after the rehabilitated
3016 property is first subject to assessment.

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3017 5. Only one exemption through a refund of previously paid
3018 taxes for the rehabilitation of real property is permitted for
3019 any single parcel of property unless there is a change in
3020 ownership, a new lessor, or a new lessee of the real property.
3021 Only one exemption through a refund of previously paid taxes for
3022 the rehabilitation of real property is permitted for any single
3023 building. A refund may not be granted unless the amount to be
3024 refunded exceeds \$500. A refund may not exceed the lesser of 97
3025 percent of the Florida sales or use tax paid on the cost of the
3026 building materials used in the rehabilitation of the real
3027 property as determined pursuant to sub-subparagraph 1.e. or
3028 \$5,000, or, if at least 20 percent of the employees of the
3029 business are residents of an enterprise zone, excluding
3030 temporary and part-time employees, the amount of refund may not
3031 exceed the lesser of 97 percent of the sales tax paid on the
3032 cost of the building materials or \$10,000. A refund shall be
3033 made within 30 days after formal approval by the department of
3034 the application for the refund.

3035 6. The department shall adopt rules governing the manner
3036 and form of refund applications and may establish guidelines as
3037 to the requisites for an affirmative showing of qualification
3038 for exemption under this paragraph.

3039 7. The department shall deduct an amount equal to 10
3040 percent of each refund granted under this paragraph from the
3041 amount transferred into the Local Government Half-cent Sales Tax
3042 Clearing Trust Fund pursuant to s. 212.20 for the county area in
3043 which the rehabilitated real property is located and shall
3044 transfer that amount to the General Revenue Fund.

3045 8. For the purposes of the exemption provided in this

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3046 paragraph, the term:

3047 a. "Building materials" means tangible personal property
3048 that becomes a component part of improvements to real property.

3049 b. "Full-time employee" means a person who performs duties
3050 in connection with the operations of an eligible business on a
3051 regular, full-time basis for an average of at least 36 hours per
3052 week each month throughout the year.

3053 ~~c.d.~~ "Real property" has the same meaning as provided in s.
3054 192.001(12), except that the term does not include a condominium
3055 parcel or condominium property as defined in s. 718.103.

3056 ~~d.e.~~ "Rehabilitation of real property" means the
3057 reconstruction, renovation, restoration, rehabilitation,
3058 construction, or expansion of improvements to real property.

3059 ~~e.d.~~ "Substantially completed" has the same meaning as
3060 provided in s. 192.042(1).

3061 f. "Temporary employee" means an employee who has been
3062 employed by an eligible business for less than 3 months on the
3063 date of the application for the exemption provided in this
3064 paragraph, or who is employed only for a limited time.

3065 9. This paragraph expires on the date specified in s.
3066 290.016 for the expiration of the Florida Enterprise Zone Act.

3067 (14) HOURLY, DAILY, OR MILEAGE CHARGES; HIGH-VOLTAGE
3068 TRANSMISSION FACILITY.—The following are exempt from the taxes
3069 imposed by this chapter:

3070 (a) The hourly, daily, or mileage charges, to the extent
3071 that such charges are subject to the jurisdiction of the United
3072 States Interstate Commerce Commission, if such charges are paid
3073 by reason of the presence of railroad cars owned by another
3074 company on the tracks of the taxpayer, or such charges are made

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3075 pursuant to car service agreements.

3076 (b) The payments made to an owner of a high-voltage bulk
3077 transmission facility in connection with the possession or
3078 control of such facility by a regional transmission
3079 organization, independent system operator, or similar entity
3080 under the jurisdiction of the Federal Energy Regulatory
3081 Commission. However, if two taxpayers, in connection with the
3082 interchange of facilities, rent or lease property, each to the
3083 other, for use in providing or furnishing any of the services
3084 mentioned in s. 166.231, the term "lease or rental" means only
3085 the net amount of rental involved. ~~TECHNICAL ASSISTANCE ADVISORY~~
3086 ~~COMMITTEE. The department shall establish a technical assistance~~
3087 ~~advisory committee with public and private sector members,~~
3088 ~~including representatives of both manufacturers and retailers,~~
3089 ~~to advise the Department of Revenue and the Department of Health~~
3090 ~~in determining the taxability of specific products and product~~
3091 ~~lines pursuant to subsection (1) and paragraph (2) (a). In~~
3092 ~~determining taxability and in preparing a list of specific~~
3093 ~~products and product lines that are or are not taxable, the~~
3094 ~~committee shall not be subject to the provisions of chapter 120.~~
3095 ~~Private sector members shall not be compensated for serving on~~
3096 ~~the committee.~~

3097 (17) EXEMPTIONS; CERTAIN GOVERNMENT CONTRACTORS.—

3098 (b) As used in this subsection, the term "overhead
3099 materials" means all tangible personal property, other than
3100 ~~qualifying property as defined in s. 212.02(14) (a) and~~
3101 electricity, which is used or consumed in the performance of a
3102 qualifying contract, title to which property vests in or passes
3103 to the government under the contract.

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3104 (c) As used in this subsection ~~and in s. 212.02(14)(a)~~, the
3105 term "qualifying contract" means a contract with the United
3106 States Department of Defense or the National Aeronautics and
3107 Space Administration, or a subcontract thereunder, but does not
3108 include a contract or subcontract for the repair, alteration,
3109 improvement, or construction of real property, except to the
3110 extent that purchases under such a contract would otherwise be
3111 exempt from the tax imposed by this chapter.

3112 Section 14. Section 212.094, Florida Statutes, is created
3113 to read:

3114 212.094 Purchaser requests for refunds from dealers.-

3115 (1) If a purchaser seeks a refund of or credit against a
3116 tax collected under this chapter by a dealer, the purchaser
3117 shall submit a written request for the refund or credit to the
3118 dealer in accordance with this section. The request must contain
3119 all the information necessary for the dealer to determine the
3120 validity of the purchaser's request.

3121 (2) The purchaser may not take any other action against the
3122 dealer with respect to the requested refund or credit until 60
3123 days after the dealer's receipt of a completed request.

3124 (3) This section does not affect a person's standing to
3125 claim a refund.

3126 (4) This section does not apply to refunds resulting from
3127 merchandise returned by a customer to a dealer.

3128 Section 15. Section 212.12, Florida Statutes, is amended to
3129 read:

3130 212.12 Dealer's credit for collecting tax; penalties for
3131 noncompliance; powers of Department of Revenue in dealing with
3132 delinquents; ~~brackets applicable to taxable transactions;~~

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3133 records required.-

3134 (1) (a) Notwithstanding any other provision of law and for
3135 the purpose of compensating persons granting licenses for and
3136 the lessors of real and personal property taxed hereunder, for
3137 the purpose of compensating dealers in tangible personal
3138 property, for the purpose of compensating dealers providing
3139 communication services and taxable services, for the purpose of
3140 compensating owners of places where admissions are collected,
3141 and for the purpose of compensating remitters of any taxes or
3142 fees reported on the same documents utilized for the sales and
3143 use tax, as compensation for the keeping of prescribed records,
3144 filing timely tax returns, and the proper accounting and
3145 remitting of taxes by them, such seller, person, lessor, dealer,
3146 owner, and remitter ~~(except dealers who make mail order sales)~~
3147 shall be allowed 2.5 percent of the amount of the tax due and
3148 accounted for and remitted to the department, in the form of a
3149 deduction in submitting his or her report and paying the amount
3150 due by him or her; the department shall allow such deduction of
3151 2.5 percent of the amount of the tax to the person paying the
3152 same for remitting the tax and making of tax returns in the
3153 manner herein provided, for paying the amount due to be paid by
3154 him or her, and as further compensation to dealers in tangible
3155 personal property for the keeping of prescribed records and for
3156 collection of taxes and remitting the same. However, if the
3157 amount of the tax due and remitted to the department for the
3158 reporting period exceeds \$1,200, no allowance shall be allowed
3159 for all amounts in excess of \$1,200. ~~The executive director of~~
3160 ~~the department is authorized to negotiate a collection~~
3161 ~~allowance, pursuant to rules promulgated by the department, with~~

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3162 ~~a dealer who makes mail order sales. The rules of the department~~
3163 ~~shall provide guidelines for establishing the collection~~
3164 ~~allowance based upon the dealer's estimated costs of collecting~~
3165 ~~the tax, the volume and value of the dealer's mail order sales~~
3166 ~~to purchasers in this state, and the administrative and legal~~
3167 ~~costs and likelihood of achieving collection of the tax absent~~
3168 ~~the cooperation of the dealer. However, in no event shall the~~
3169 ~~collection allowance negotiated by the executive director exceed~~
3170 ~~10 percent of the tax remitted for a reporting period.~~

3171 (b) ~~(a)~~ The Department of Revenue may deny the collection
3172 allowance if a taxpayer files an incomplete return or if the
3173 required tax return or tax is delinquent at the time of payment.

3174 1. An "incomplete return" is, for purposes of this chapter,
3175 a return that ~~which~~ is lacking such uniformity, completeness,
3176 and arrangement that the physical handling, verification, review
3177 of the return, or determination of other taxes and fees reported
3178 on the return may not be readily accomplished.

3179 2. The department shall adopt rules requiring such
3180 information as it may deem necessary to ensure that the tax
3181 levied hereunder is properly collected, reviewed, compiled,
3182 reported, and enforced, including, but not limited to: the
3183 amount of gross sales; the amount of taxable sales; the amount
3184 of tax collected or due; the amount of lawful refunds,
3185 deductions, or credits claimed; the amount claimed as the
3186 dealer's collection allowance; the amount of penalty and
3187 interest; the amount due with the return; and such other
3188 information as the Department of Revenue may specify. The
3189 department shall require that transient rentals and agricultural
3190 equipment transactions be separately shown. Sales made through

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3191 vending machines as defined in s. 212.0515 must be separately
3192 shown on the return. Sales made through coin-operated amusement
3193 machines as defined by s. 212.02 and the number of machines
3194 operated must be separately shown on the return or on a form
3195 prescribed by the department. If a separate form is required,
3196 the same penalties for late filing, incomplete filing, or
3197 failure to file as provided for the sales tax return shall apply
3198 to said form.

3199 (c)~~(b)~~ The collection allowance and other credits or
3200 deductions provided in this chapter shall be applied
3201 proportionally to any taxes or fees reported on the same
3202 documents used for the sales and use tax.

3203 (d)~~(e)~~1. A dealer entitled to the collection allowance
3204 provided in this section may elect to forego the collection
3205 allowance and direct that said amount be transferred into the
3206 Educational Enhancement Trust Fund. Such an election must be
3207 made with the timely filing of a return and may not be rescinded
3208 once made. If a dealer who makes such an election files a
3209 delinquent return, underpays the tax, or files an incomplete
3210 return, the amount transferred into the Educational Enhancement
3211 Trust Fund shall be the amount of the collection allowance
3212 remaining after resolution of liability for all of the tax,
3213 interest, and penalty due on that return or underpayment of tax.
3214 The Department of Education shall distribute the remaining
3215 amount from the trust fund to the school districts that have
3216 adopted resolutions stating that those funds will be used to
3217 ensure that up-to-date technology is purchased for the
3218 classrooms in the district and that teachers are trained in the
3219 use of that technology. Revenues collected in districts that do

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3220 not adopt such a resolution shall be equally distributed to
3221 districts that have adopted such resolutions.

3222 2. This paragraph applies to all taxes, surtaxes, and any
3223 local option taxes administered under this chapter and remitted
3224 directly to the department. This paragraph does not apply to any
3225 locally imposed and self-administered convention development
3226 tax, tourist development tax, or tourist impact tax administered
3227 under this chapter.

3228 3. Revenues from the dealer-collection allowances shall be
3229 transferred quarterly from the General Revenue Fund to the
3230 Educational Enhancement Trust Fund. The Department of Revenue
3231 shall provide to the Department of Education quarterly
3232 information about such revenues by county to which the
3233 collection allowance was attributed.

3234
3235 Notwithstanding any provision of chapter 120 to the contrary,
3236 the Department of Revenue may adopt rules to carry out the
3237 amendment made by chapter 2006-52, Laws of Florida, to this
3238 section.

3239 (e)1. In lieu of the collection allowance provided in
3240 paragraph (a), the executive director of the department shall
3241 establish a monetary collection allowance for a person who
3242 qualifies as a certified service provider.

3243 2. The executive director of the department shall establish
3244 collection allowance amounts for certified service providers.
3245 The collection allowance must be based upon a base percentage
3246 calculation, the estimated costs of collection, the state's
3247 ability to reduce the allowance over time, and other criteria
3248 that will achieve the highest percentage of tax collections to

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3249 be remitted. However, a collection allowance amount may not
3250 exceed 10 percent of the tax remitted for a reporting period.
3251 All monetary allowances must be in the form of collection
3252 allowances.

3253 (2) (a) When any person required hereunder to make any
3254 return or to pay any tax or fee imposed by this chapter either
3255 fails to timely file such return or fails to pay the tax or fee
3256 shown due on the return within the time required hereunder, in
3257 addition to all other penalties provided herein and by the laws
3258 of this state in respect to such taxes or fees, a specific
3259 penalty shall be added to the tax or fee in the amount of 10
3260 percent of either the tax or fee shown on the return that is not
3261 timely filed or any tax or fee not paid timely. The penalty may
3262 not be less than \$50 for failure to timely file a tax return
3263 required by s. 212.11(1) or timely pay the tax or fee shown due
3264 on the return except as provided in s. 213.21(10). If a person
3265 fails to timely file a return required by s. 212.11(1) and to
3266 timely pay the tax or fee shown due on the return, only one
3267 penalty of 10 percent, which may not be less than \$50, shall be
3268 imposed.

3269 (b) When any person required under this section to make a
3270 return or to pay a tax or fee imposed by this chapter fails to
3271 disclose the tax or fee on the return within the time required,
3272 excluding a noncompliant filing event generated by situations
3273 covered in paragraph (a), in addition to all other penalties
3274 provided in this section and by the laws of this state in
3275 respect to such taxes or fees, a specific penalty shall be added
3276 to the additional tax or fee owed in the amount of 10 percent of
3277 any such unpaid tax or fee not paid timely if the failure is for

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3278 not more than 30 days, with an additional 10 percent of any such
3279 unpaid tax or fee for each additional 30 days, or fraction
3280 thereof, while the failure continues, not to exceed a total
3281 penalty of 50 percent, in the aggregate, of any unpaid tax or
3282 fee.

3283 (c) Any person who knowingly and with a willful intent to
3284 evade any tax imposed under this chapter fails to file six
3285 consecutive returns as required by law commits a felony of the
3286 third degree, punishable as provided in s. 775.082 or s.
3287 775.083.

3288 (d) Any person who makes a false or fraudulent return with
3289 a willful intent to evade payment of any tax or fee imposed
3290 under this chapter; any person who, after the department's
3291 delivery of a written notice to the person's last known address
3292 specifically alerting the person of the requirement to register
3293 the person's business as a dealer, intentionally fails to
3294 register the business; and any person who, after the
3295 department's delivery of a written notice to the person's last
3296 known address specifically alerting the person of the
3297 requirement to collect tax on specific transactions,
3298 intentionally fails to collect such tax, shall, in addition to
3299 the other penalties provided by law, be liable for a specific
3300 penalty of 100 percent of any unreported or any uncollected tax
3301 or fee and, upon conviction, for fine and punishment as provided
3302 in s. 775.082, s. 775.083, or s. 775.084. Delivery of written
3303 notice may be made by certified mail, or by the use of such
3304 other method as is documented as being necessary and reasonable
3305 under the circumstances. The civil and criminal penalties
3306 imposed herein for failure to comply with a written notice

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3307 alerting the person of the requirement to register the person's
3308 business as a dealer or to collect tax on specific transactions
3309 shall not apply if the person timely files a written challenge
3310 to such notice in accordance with procedures established by the
3311 department by rule or the notice fails to clearly advise that
3312 failure to comply with or timely challenge the notice will
3313 result in the imposition of the civil and criminal penalties
3314 imposed herein.

3315 1. If the total amount of unreported or uncollected taxes
3316 or fees is less than \$300, the first offense resulting in
3317 conviction is a misdemeanor of the second degree, the second
3318 offense resulting in conviction is a misdemeanor of the first
3319 degree, and the third and all subsequent offenses resulting in
3320 conviction is a misdemeanor of the first degree, and the third
3321 and all subsequent offenses resulting in conviction are felonies
3322 of the third degree.

3323 2. If the total amount of unreported or uncollected taxes
3324 or fees is \$300 or more but less than \$20,000, the offense is a
3325 felony of the third degree.

3326 3. If the total amount of unreported or uncollected taxes
3327 or fees is \$20,000 or more but less than \$100,000, the offense
3328 is a felony of the second degree.

3329 4. If the total amount of unreported or uncollected taxes
3330 or fees is \$100,000 or more, the offense is a felony of the
3331 first degree.

3332 (e) A person who willfully attempts in any manner to evade
3333 any tax, surcharge, or fee imposed under this chapter or the
3334 payment thereof is, in addition to any other penalties provided
3335 by law, liable for a specific penalty in the amount of 100

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3336 percent of the tax, surcharge, or fee, and commits a felony of
3337 the third degree, punishable as provided in s. 775.082, s.
3338 775.083, or s. 775.084.

3339 (f) When any person, firm, or corporation fails to timely
3340 remit the proper estimated payment required under s. 212.11, a
3341 specific penalty shall be added in an amount equal to 10 percent
3342 of any unpaid estimated tax. Beginning with January 1, 1985,
3343 returns, the department, upon a showing of reasonable cause, is
3344 authorized to waive or compromise penalties imposed by this
3345 paragraph. However, other penalties and interest shall be due
3346 and payable if the return on which the estimated payment was due
3347 was not timely or properly filed.

3348 (g) A dealer who files a consolidated return pursuant to s.
3349 212.11(1)(e) is subject to the penalty established in paragraph
3350 (e) unless the dealer has paid the required estimated tax for
3351 his or her consolidated return as a whole without regard to each
3352 location. If the dealer fails to pay the required estimated tax
3353 for his or her consolidated return as a whole, each filing
3354 location shall stand on its own with respect to calculating
3355 penalties pursuant to paragraph (f).

3356 (3) When any dealer, or other person charged herein, fails
3357 to remit the tax, or any portion thereof, on or before the day
3358 when such tax is required by law to be paid, there shall be
3359 added to the amount due interest at the rate of 1 percent per
3360 month of the amount due from the date due until paid. Interest
3361 on the delinquent tax shall be calculated beginning on the 21st
3362 day of the month following the month for which the tax is due,
3363 except as otherwise provided in this chapter.

3364 (4) All penalties and interest imposed by this chapter

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3365 shall be payable to and collectible by the department in the
3366 same manner as if they were a part of the tax imposed. The
3367 department may settle or compromise any such interest or
3368 penalties pursuant to s. 213.21.

3369 (5) (a) The department is authorized to audit or inspect the
3370 records and accounts of dealers defined herein, ~~including audits~~
3371 ~~or inspections of dealers who make mail order sales to the~~
3372 ~~extent permitted by another state,~~ and to correct by credit any
3373 overpayment of tax, and, in the event of a deficiency, an
3374 assessment shall be made and collected. No administrative
3375 finding of fact is necessary prior to the assessment of any tax
3376 deficiency.

3377 (b) In the event any dealer or other person charged herein
3378 fails or refuses to make his or her records available for
3379 inspection so that no audit or examination has been made of the
3380 books and records of such dealer or person, fails or refuses to
3381 register as a dealer, fails to make a report and pay the tax as
3382 provided by this chapter, makes a grossly incorrect report or
3383 makes a report that is false or fraudulent, then, in such event,
3384 it shall be the duty of the department to make an assessment
3385 from an estimate based upon the best information then available
3386 to it for the taxable period of retail sales of such dealer, the
3387 gross proceeds from rentals, the total admissions received,
3388 amounts received from leases of tangible personal property by
3389 such dealer, or of the cost price of all articles of tangible
3390 personal property imported by the dealer for use or consumption
3391 or distribution or storage to be used or consumed in this state,
3392 or of the sales or cost price of all services the sale or use of
3393 which is taxable under this chapter, together with interest,

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3394 plus penalty, if such have accrued, as the case may be. Then the
3395 department shall proceed to collect such taxes, interest, and
3396 penalty on the basis of such assessment, which shall be
3397 considered prima facie correct, and the burden to show the
3398 contrary shall rest upon the dealer, seller, owner, or lessor,
3399 as the case may be.

3400 (6) (a) The department is given the power to prescribe the
3401 records to be kept by all persons subject to taxes imposed by
3402 this chapter. It shall be the duty of every person required to
3403 make a report and pay any tax under this chapter, every person
3404 receiving rentals or license fees, and owners of places of
3405 admission, to keep and preserve suitable records of the sales,
3406 leases, rentals, license fees, admissions, or purchases, as the
3407 case may be, taxable under this chapter; such other books of
3408 account as may be necessary to determine the amount of the tax
3409 due hereunder; and other information as may be required by the
3410 department. It shall be the duty of every such person so charged
3411 with such duty, moreover, to keep and preserve as long as
3412 required by s. 213.35 all invoices and other records of goods,
3413 wares, and merchandise; records of admissions, leases, license
3414 fees and rentals; and records of all other subjects of taxation
3415 under this chapter. All such books, invoices, and other records
3416 shall be open to examination at all reasonable hours to the
3417 department or any of its duly authorized agents.

3418 (b) For the purpose of this subsection, if a dealer does
3419 not have adequate records of his or her retail sales or
3420 purchases, the department may, upon the basis of a test or
3421 sampling of the dealer's available records or other information
3422 relating to the sales or purchases made by such dealer for a

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3423 representative period, determine the proportion that taxable
3424 retail sales bear to total retail sales or the proportion that
3425 taxable purchases bear to total purchases. This subsection does
3426 not affect the duty of the dealer to collect, or the liability
3427 of any consumer to pay, any tax imposed by or pursuant to this
3428 chapter.

3429 (c)1. If the records of a dealer are adequate but
3430 voluminous in nature and substance, the department may sample
3431 such records and project the audit findings derived therefrom
3432 over the entire audit period to determine the proportion that
3433 taxable retail sales bear to total retail sales or the
3434 proportion that taxable purchases bear to total purchases. In
3435 order to conduct such a sample, the department must first make a
3436 good faith effort to reach an agreement with the dealer, which
3437 agreement provides for the means and methods to be used in the
3438 sampling process. In the event that no agreement is reached, the
3439 dealer is entitled to a review by the executive director. In the
3440 case of fixed assets, a dealer may agree in writing with the
3441 department for adequate but voluminous records to be
3442 statistically sampled. Such an agreement shall provide for the
3443 methodology to be used in the statistical sampling process. The
3444 audit findings derived therefrom shall be projected over the
3445 period represented by the sample in order to determine the
3446 proportion that taxable purchases bear to total purchases. Once
3447 an agreement has been signed, it is final and conclusive with
3448 respect to the method of sampling fixed assets, and the
3449 department may not conduct a detailed audit of fixed assets, and
3450 the taxpayer may not request a detailed audit after the
3451 agreement is reached.

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3452 2. For the purposes of sampling pursuant to subparagraph
3453 1., the department shall project any deficiencies and
3454 overpayments derived therefrom over the entire audit period. In
3455 determining the dealer's compliance, the department shall reduce
3456 any tax deficiency as derived from the sample by the amount of
3457 any overpayment derived from the sample. In the event the
3458 department determines from the sample results that the dealer
3459 has a net tax overpayment, the department shall provide the
3460 findings of this overpayment to the Chief Financial Officer for
3461 repayment of funds paid into the State Treasury through error
3462 pursuant to s. 215.26.

3463 3.a. A taxpayer is entitled, both in connection with an
3464 audit and in connection with an application for refund filed
3465 independently of any audit, to establish the amount of any
3466 refund or deficiency through statistical sampling when the
3467 taxpayer's records are adequate but voluminous. In the case of
3468 fixed assets, a dealer may agree in writing with the department
3469 for adequate but voluminous records to be statistically sampled.
3470 Such an agreement shall provide for the methodology to be used
3471 in the statistical sampling process. The audit findings derived
3472 therefrom shall be projected over the period represented by the
3473 sample in order to determine the proportion that taxable
3474 purchases bear to total purchases. Once an agreement has been
3475 signed, it is final and conclusive with respect to the method of
3476 sampling fixed assets, and the department may not conduct a
3477 detailed audit of fixed assets, and the taxpayer may not request
3478 a detailed audit after the agreement is reached.

3479 b. Alternatively, a taxpayer is entitled to establish any
3480 refund or deficiency through any other sampling method agreed

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3481 upon by the taxpayer and the department when the taxpayer's
3482 records, other than those regarding fixed assets, are adequate
3483 but voluminous. Whether done through statistical sampling or any
3484 other sampling method agreed upon by the taxpayer and the
3485 department, the completed sample must reflect both overpayments
3486 and underpayments of taxes due. The sample shall be conducted
3487 through:

3488 (I) A taxpayer request to perform the sampling through the
3489 certified audit program pursuant to s. 213.285;

3490 (II) Attestation by a certified public accountant as to the
3491 adequacy of the sampling method utilized and the results reached
3492 using such sampling method; or

3493 (III) A sampling method that has been submitted by the
3494 taxpayer and approved by the department before a refund claim is
3495 submitted. This sub-sub-subparagraph does not prohibit a
3496 taxpayer from filing a refund claim prior to approval by the
3497 department of the sampling method; however, a refund claim
3498 submitted before the sampling method has been approved by the
3499 department cannot be a complete refund application pursuant to
3500 s. 213.255 until the sampling method has been approved by the
3501 department.

3502 c. The department shall prescribe by rule the procedures to
3503 be followed under each method of sampling. Such procedures shall
3504 follow generally accepted auditing procedures for sampling. The
3505 rule shall also set forth other criteria regarding the use of
3506 sampling, including, but not limited to, training requirements,
3507 which ~~that~~ must be met before a sampling method may be utilized
3508 and the steps necessary for the department and the taxpayer to
3509 reach agreement on a sampling method submitted by the taxpayer

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3510 for approval by the department.

3511 (7) In the event the dealer has imported tangible personal
3512 property and he or she fails to produce an invoice showing the
3513 cost price of the articles, as defined in this chapter, which
3514 are subject to tax, or the invoice does not reflect the true or
3515 actual cost price as defined herein, then the department shall
3516 ascertain, in any manner feasible, the true cost price, and
3517 assess and collect the tax thereon with interest plus penalties,
3518 if such have accrued on the true cost price as assessed by it.
3519 The assessment so made shall be considered prima facie correct,
3520 and the duty shall be on the dealer to show to the contrary.

3521 (8) In the case of the lease or rental of tangible personal
3522 property, or other rentals or license fees as herein defined and
3523 taxed, if the consideration given or reported by the lessor,
3524 person receiving rental or license fee, or dealer does not, in
3525 the judgment of the department, represent the true or actual
3526 consideration, then the department is authorized to ascertain
3527 the same and assess and collect the tax thereon in the same
3528 manner as above provided, with respect to imported tangible
3529 property, together with interest, plus penalties, if such have
3530 accrued.

3531 (9) Taxes imposed by this chapter upon the privilege of the
3532 use, consumption, storage for consumption, or sale of tangible
3533 personal property, admissions, license fees, rentals,
3534 communication services, and upon the sale or use of services as
3535 herein taxed shall be collected upon the basis of an addition of
3536 the tax imposed by this chapter to the total price of such
3537 admissions, license fees, rentals, communication or other
3538 services, or sale price of such article or articles that are

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3539 purchased, sold, or leased at any one time by or to a customer
3540 or buyer; the dealer, or person charged herein, is required to
3541 pay a privilege tax in the amount of the tax imposed by this
3542 chapter on the total of his or her gross sales of tangible
3543 personal property, admissions, license fees, rentals, and
3544 communication services or to collect a tax upon the sale or use
3545 of services, and such person or dealer shall add the tax imposed
3546 by this chapter to the price, license fee, rental, or
3547 admissions, and communication or other services and collect the
3548 total sum from the purchaser, admittee, licensee, lessee, or
3549 consumer. In computing the tax due or to be collected as the
3550 result of any transaction, the dealer may elect to compute the
3551 tax due on a transaction on a per-item basis or on an invoice
3552 basis, consistent with the definition of the term "sales price."
3553 The tax rate shall be the sum of the applicable state and local
3554 rates, if any, and the tax computation shall be carried to the
3555 third decimal place. Whenever the third decimal place is greater
3556 than four, the tax shall be rounded to the next whole cent. ~~The~~
3557 ~~department shall make available in an electronic format or~~
3558 ~~otherwise the tax amounts and the following brackets applicable~~
3559 ~~to all transactions taxable at the rate of 6 percent:~~

3560 ~~(a) On single sales of less than 10 cents, no tax shall be~~
3561 ~~added.~~

3562 ~~(b) On single sales in amounts from 10 cents to 16 cents,~~
3563 ~~both inclusive, 1 cent shall be added for taxes.~~

3564 ~~(c) On sales in amounts from 17 cents to 33 cents, both~~
3565 ~~inclusive, 2 cents shall be added for taxes.~~

3566 ~~(d) On sales in amounts from 34 cents to 50 cents, both~~
3567 ~~inclusive, 3 cents shall be added for taxes.~~

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- 3568 ~~(e) On sales in amounts from 51 cents to 66 cents, both~~
3569 ~~inclusive, 4 cents shall be added for taxes.~~
- 3570 ~~(f) On sales in amounts from 67 cents to 83 cents, both~~
3571 ~~inclusive, 5 cents shall be added for taxes.~~
- 3572 ~~(g) On sales in amounts from 84 cents to \$1, both~~
3573 ~~inclusive, 6 cents shall be added for taxes.~~
- 3574 ~~(h) On sales in amounts of more than \$1, 6 percent shall be~~
3575 ~~charged upon each dollar of price, plus the appropriate bracket~~
3576 ~~charge upon any fractional part of a dollar.~~
- 3577 ~~(10) In counties which have adopted a discretionary sales~~
3578 ~~surtax at the rate of 1 percent, the department shall make~~
3579 ~~available in an electronic format or otherwise the tax amounts~~
3580 ~~and the following brackets applicable to all taxable~~
3581 ~~transactions that would otherwise have been transactions taxable~~
3582 ~~at the rate of 6 percent:~~
- 3583 ~~(a) On single sales of less than 10 cents, no tax shall be~~
3584 ~~added.~~
- 3585 ~~(b) On single sales in amounts from 10 cents to 14 cents,~~
3586 ~~both inclusive, 1 cent shall be added for taxes.~~
- 3587 ~~(c) On sales in amounts from 15 cents to 28 cents, both~~
3588 ~~inclusive, 2 cents shall be added for taxes.~~
- 3589 ~~(d) On sales in amounts from 29 cents to 42 cents, both~~
3590 ~~inclusive, 3 cents shall be added for taxes.~~
- 3591 ~~(e) On sales in amounts from 43 cents to 57 cents, both~~
3592 ~~inclusive, 4 cents shall be added for taxes.~~
- 3593 ~~(f) On sales in amounts from 58 cents to 71 cents, both~~
3594 ~~inclusive, 5 cents shall be added for taxes.~~
- 3595 ~~(g) On sales in amounts from 72 cents to 85 cents, both~~
3596 ~~inclusive, 6 cents shall be added for taxes.~~

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3597 ~~(h) On sales in amounts from 86 cents to \$1, both~~
3598 ~~inclusive, 7 cents shall be added for taxes.~~

3599 ~~(i) On sales in amounts from \$1 up to, and including, the~~
3600 ~~first \$5,000 in price, 7 percent shall be charged upon each~~
3601 ~~dollar of price, plus the appropriate bracket charge upon any~~
3602 ~~fractional part of a dollar.~~

3603 ~~(j) On sales in amounts of more than \$5,000 in price, 7~~
3604 ~~percent shall be added upon the first \$5,000 in price, and 6~~
3605 ~~percent shall be added upon each dollar of price in excess of~~
3606 ~~the first \$5,000 in price, plus the bracket charges upon any~~
3607 ~~fractional part of a dollar as provided for in subsection (9).~~

3608 ~~(11) The department shall make available in an electronic~~
3609 ~~format or otherwise the tax amounts and brackets applicable to~~
3610 ~~all taxable transactions that occur in counties that have a~~
3611 ~~surtax at a rate other than 1 percent which transactions would~~
3612 ~~otherwise have been transactions taxable at the rate of 6~~
3613 ~~percent. Likewise, the department shall make available in an~~
3614 ~~electronic format or otherwise the tax amounts and brackets~~
3615 ~~applicable to transactions taxable at 7 percent pursuant to s.~~
3616 ~~212.05(1)(c) and on transactions which would otherwise have been~~
3617 ~~so taxable in counties which have adopted a discretionary sales~~
3618 ~~surtax.~~

3619 ~~(10)(12) The Legislature intends It is hereby declared to~~
3620 ~~be the legislative intent that, whenever in the construction,~~
3621 ~~administration, or enforcement of this chapter there may be any~~
3622 ~~question respecting a duplication of the tax, the end consumer,~~
3623 ~~or the last retail sale, is be the sale intended to be taxed and~~
3624 ~~insofar as may be practicable there be no duplication or~~
3625 ~~pyramiding of the tax.~~

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3626 (11)~~(13)~~ In order to aid the administration and enforcement
3627 of the provisions of this chapter with respect to the rentals
3628 and license fees, each lessor or person granting the use of any
3629 hotel, apartment house, roominghouse, tourist or trailer camp,
3630 real property, or any interest therein, or any portion thereof,
3631 inclusive of owners; property managers; lessors; landlords;
3632 hotel, apartment house, and roominghouse operators; and all
3633 licensed real estate agents within the state leasing, granting
3634 the use of, or renting such property, shall be required to keep
3635 a record of each and every such lease, license, or rental
3636 transaction that ~~which~~ is taxable under this chapter, in such a
3637 manner and upon such forms as the department may prescribe, and
3638 to report such transaction to the department or its designated
3639 agents, and to maintain such records as long as required by s.
3640 213.35, subject to the inspection of the department and its
3641 agents. Upon the failure by such owner; property manager;
3642 lessor; landlord; hotel, apartment house, roominghouse, tourist
3643 or trailer camp operator; or real estate agent to keep and
3644 maintain such records and to make such reports upon the forms
3645 and in the manner prescribed, such owner; property manager;
3646 lessor; landlord; hotel, apartment house, roominghouse, tourist
3647 or trailer camp operator; receiver of rent or license fees; or
3648 real estate agent commits ~~is guilty of~~ a misdemeanor of the
3649 second degree, punishable as provided in s. 775.082 or s.
3650 775.083, for the first offense; for subsequent offenses, ~~they~~
3651 ~~are~~ each is ~~guilty of~~ a misdemeanor of the first degree,
3652 punishable as provided in s. 775.082 or s. 775.083. If, however,
3653 any subsequent offense involves intentional destruction of such
3654 records with an intent to evade payment of or deprive the state

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3655 of any tax revenues, such subsequent offense is ~~shall be~~ a
3656 felony of the third degree, punishable as provided in s. 775.082
3657 or s. 775.083.

3658 ~~(14) If it is determined upon audit that a dealer has~~
3659 ~~collected and remitted taxes by applying the applicable tax rate~~
3660 ~~to each transaction as described in subsection (9) and rounding~~
3661 ~~the tax due to the nearest whole cent rather than applying the~~
3662 ~~appropriate bracket system provided by law or department rule,~~
3663 ~~the dealer shall not be held liable for additional tax, penalty,~~
3664 ~~and interest resulting from such failure if:~~

3665 ~~(a) The dealer acted in a good faith belief that rounding~~
3666 ~~to the nearest whole cent was the proper method of determining~~
3667 ~~the amount of tax due on each taxable transaction.~~

3668 ~~(b) The dealer timely reported and remitted all taxes~~
3669 ~~collected on each taxable transaction.~~

3670 ~~(c) The dealer agrees in writing to future compliance with~~
3671 ~~the laws and rules concerning brackets applicable to the~~
3672 ~~dealer's transactions.~~

3673 Section 16. Subsection (1) of section 212.15, Florida
3674 Statutes, is amended to read:

3675 212.15 Taxes declared state funds; penalties for failure to
3676 remit taxes; due and delinquent dates; judicial review.—

3677 (1) The taxes imposed by this chapter shall, ~~except as~~
3678 ~~provided in s. 212.06(5)(a)2.e.,~~ become state funds at the
3679 moment of collection and shall for each month be due to the
3680 department on the first day of the succeeding month and be
3681 delinquent on the 21st day of such month. All returns postmarked
3682 after the 20th day of such month are delinquent.

3683 Section 17. Subsection (3) of section 212.17, Florida

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3684 Statutes, is amended to read:

3685 212.17 Credits for returned goods, rentals, or admissions;
3686 goods acquired for dealer's own use and subsequently resold;
3687 additional powers of department.-

3688 (3) A dealer who has remitted ~~paid~~ the tax imposed by this
3689 chapter on tangible personal property or services may take a
3690 credit or obtain a refund for ~~any~~ tax remitted ~~paid~~ by the
3691 dealer on the unpaid balance due on bad debts ~~worthless accounts~~
3692 within 12 months following the month in which the bad debt was
3693 ~~has been~~ charged off as uncollectable in the dealer's books and
3694 records and was eligible to be deducted for federal income tax
3695 purposes. A credit or refund based on a bad debt may not include
3696 finance charges or interest, sales tax, uncollectible amounts on
3697 property that remain in the possession of the selling dealer,
3698 expenses incurred in collection efforts, or any amounts relating
3699 to repossessed property.

3700 (a) A dealer who is taking a credit against or obtaining a
3701 refund on worthless accounts shall calculate the amount of the
3702 deduction pursuant to 26 U.S.C. s. 166.

3703 (b) When the amount of bad debt exceeds the amount of
3704 taxable sales for the period during which the bad debt is
3705 charged off, a refund claim must be filed, notwithstanding s.
3706 215.26(2), within the period prescribed in this subsection.

3707 (c) If any accounts so charged off for which a credit or
3708 refund has been obtained are thereafter in whole or in part paid
3709 to the dealer, the amount so paid shall be included in the first
3710 return filed after such collection and the tax paid accordingly.

3711 (d) If filing responsibilities have been assumed by a
3712 certified service provider, the certified service provider shall

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3713 claim, on behalf of the dealer, any bad-debt allowance provided
3714 by this subsection. The certified service provider shall credit
3715 or refund to the dealer the full amount of any bad-debt
3716 allowance or refund received.

3717 (e) For purposes of reporting a payment received on a
3718 previously claimed bad debt, any payments made on a debt or
3719 account shall first be applied proportionally to the taxable
3720 price of the property or service and the sales tax on such
3721 property, and second to any interest, service charges, and any
3722 other charges.

3723 (f) In situations in which the books and records of the
3724 dealer or certified service provider making the claim for a bad-
3725 debt allowance support an allocation of the bad debts among
3726 states, the department may permit the allocation among states.

3727 Section 18. Paragraphs (a) and (e) of subsection (3) of
3728 section 212.18, Florida Statutes, are amended to read:

3729 212.18 Administration of law; registration of dealers;
3730 rules.-

3731 (3) (a) Every person desiring to engage in or conduct
3732 business in this state as a dealer, as defined in this chapter,
3733 or to lease, rent, or let or grant licenses in living quarters
3734 or sleeping or housekeeping accommodations in hotels, apartment
3735 houses, roominghouses, or tourist or trailer camps that are
3736 subject to tax under s. 212.03, or to lease, rent, or let or
3737 grant licenses in real property, as defined in this chapter, and
3738 every person who sells or receives anything of value by way of
3739 admissions, must file with the department an application for a
3740 certificate of registration for each place of business, showing
3741 the names of the persons who have interests in such business and

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3742 their residences, the address of the business, and such other
3743 data as the department may reasonably require. However, owners
3744 and operators of vending machines or newspaper rack machines are
3745 required to obtain only one certificate of registration for each
3746 county in which such machines are located. The department, by
3747 rule, may authorize a dealer that uses independent sellers to
3748 sell its merchandise to remit tax on the retail sales price
3749 charged to the ultimate consumer in lieu of having the
3750 independent seller register as a dealer and remit the tax. The
3751 department may appoint the county tax collector as the
3752 department's agent to accept applications for registrations. The
3753 application must be made to the department before the person,
3754 firm, copartnership, or corporation may engage in such business,
3755 and it must be accompanied by a registration fee of \$5. ~~However,~~
3756 ~~a registration fee is not required to accompany an application~~
3757 ~~to engage in or conduct business to make mail order sales.~~ The
3758 department may waive the registration fee for applications
3759 submitted through the department's Internet registration process
3760 or the multistate electronic registration system.

3761 (e) As used in this paragraph, the term "exhibitor" means a
3762 person who enters into an agreement authorizing the display of
3763 tangible personal property or services at a convention or a
3764 trade show. The following provisions apply to the registration
3765 of exhibitors as dealers under this chapter:

3766 1. An exhibitor whose agreement prohibits the sale of
3767 tangible personal property or services subject to the tax
3768 imposed in this chapter is not required to register as a dealer.

3769 2. An exhibitor whose agreement provides for the sale at
3770 wholesale only of tangible personal property or services subject

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3771 to the tax imposed in this chapter must obtain a resale
3772 certificate from the purchasing dealer but is not required to
3773 register as a dealer.

3774 3. An exhibitor whose agreement authorizes the retail sale
3775 of tangible personal property or services subject to the tax
3776 imposed in this chapter must register as a dealer and collect
3777 the tax imposed under this chapter on such sales.

3778 ~~4. Any exhibitor who makes a mail order sale pursuant to s.~~
3779 ~~212.0596 must register as a dealer.~~

3780

3781 Any person who conducts a convention or a trade show must make
3782 their exhibitor's agreements available to the department for
3783 inspection and copying.

3784 Section 19. Section 212.20, Florida Statutes, is amended to
3785 read:

3786 212.20 Funds collected, disposition; additional powers of
3787 department; operational expense; refund of taxes adjudicated
3788 unconstitutionally collected.—

3789 (1) The department shall pay over to the Chief Financial
3790 Officer of the state all funds received and collected by it
3791 under the provisions of this chapter, to be credited to the
3792 account of the General Revenue Fund of the state.

3793 (2) The department is authorized to employ all necessary
3794 assistants to administer this chapter properly and is also
3795 authorized to purchase all necessary supplies and equipment
3796 ~~which may be~~ required for this purpose.

3797 (3) The estimated amount of money needed for the
3798 administration of this chapter shall be included by the
3799 department in its annual legislative budget request for the

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3800 operation of its office.

3801 ~~(4) When there has been a final adjudication that any tax~~
3802 ~~pursuant to s. 212.0596 was levied, collected, or both, contrary~~
3803 ~~to the Constitution of the United States or the State~~
3804 ~~Constitution, the department shall, in accordance with rules,~~
3805 ~~determine, based upon claims for refund and other evidence and~~
3806 ~~information, who paid such tax or taxes, and refund to each such~~
3807 ~~person the amount of tax paid. For purposes of this subsection,~~
3808 ~~a "final adjudication" is a decision of a court of competent~~
3809 ~~jurisdiction from which no appeal can be taken or from which the~~
3810 ~~official or officials of this state with authority to make such~~
3811 ~~decisions has or have decided not to appeal.~~

3812 (4)~~(5)~~ For the purposes of this section, the term:

3813 (a) "Proceeds" means all tax or fee revenue collected or
3814 received by the department, including interest and penalties.

3815 (b) "Reallocate" means reduction of the accounts of initial
3816 deposit and redeposit into the indicated account.

3817 (5)~~(6)~~ Distribution of all proceeds under this chapter and
3818 s. 202.18(1)(b) and (2)(b) shall be as follows:

3819 (a) Proceeds from the convention development taxes
3820 authorized under s. 212.0305 shall be reallocated to the
3821 Convention Development Tax Clearing Trust Fund.

3822 (b) Proceeds from discretionary sales surtaxes imposed
3823 pursuant to ss. 212.054 and 212.055 shall be reallocated to the
3824 Discretionary Sales Surtax Clearing Trust Fund.

3825 (c) Proceeds from the fees imposed under ss. 212.05(1)(h)3.
3826 and 212.18(3) shall remain with the General Revenue Fund.

3827 (d) The proceeds of all other taxes and fees imposed
3828 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)

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3829 and (2) (b) shall be distributed as follows:

3830 1. In any fiscal year, the greater of \$500 million, minus
3831 an amount equal to 4.6 percent of the proceeds of the taxes
3832 collected pursuant to chapter 201, or 5.2 percent of all other
3833 taxes and fees imposed pursuant to this chapter or remitted
3834 pursuant to s. 202.18(1) (b) and (2) (b) shall be deposited in
3835 monthly installments into the General Revenue Fund.

3836 2. After the distribution under subparagraph 1., 8.814
3837 percent of the amount remitted by a sales tax dealer located
3838 within a participating county pursuant to s. 218.61 shall be
3839 transferred into the Local Government Half-cent Sales Tax
3840 Clearing Trust Fund. Beginning July 1, 2003, the amount to be
3841 transferred shall be reduced by 0.1 percent, and the department
3842 shall distribute this amount to the Public Employees Relations
3843 Commission Trust Fund less \$5,000 each month, which shall be
3844 added to the amount calculated in subparagraph 3. and
3845 distributed accordingly.

3846 3. After the distribution under subparagraphs 1. and 2.,
3847 0.095 percent shall be transferred to the Local Government Half-
3848 cent Sales Tax Clearing Trust Fund and distributed pursuant to
3849 s. 218.65.

3850 4. After the distributions under subparagraphs 1., 2., and
3851 3., 2.0440 percent of the available proceeds shall be
3852 transferred monthly to the Revenue Sharing Trust Fund for
3853 Counties pursuant to s. 218.215.

3854 5. After the distributions under subparagraphs 1., 2., and
3855 3., 1.3409 percent of the available proceeds shall be
3856 transferred monthly to the Revenue Sharing Trust Fund for
3857 Municipalities pursuant to s. 218.215. If the total revenue to

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3858 be distributed pursuant to this subparagraph is at least as
3859 great as the amount due from the Revenue Sharing Trust Fund for
3860 Municipalities and the former Municipal Financial Assistance
3861 Trust Fund in state fiscal year 1999-2000, no municipality shall
3862 receive less than the amount due from the Revenue Sharing Trust
3863 Fund for Municipalities and the former Municipal Financial
3864 Assistance Trust Fund in state fiscal year 1999-2000. If the
3865 total proceeds to be distributed are less than the amount
3866 received in combination from the Revenue Sharing Trust Fund for
3867 Municipalities and the former Municipal Financial Assistance
3868 Trust Fund in state fiscal year 1999-2000, each municipality
3869 shall receive an amount proportionate to the amount it was due
3870 in state fiscal year 1999-2000.

3871 6. Of the remaining proceeds:

3872 a. In each fiscal year, the sum of \$29,915,500 shall be
3873 divided into as many equal parts as there are counties in the
3874 state, and one part shall be distributed to each county. The
3875 distribution among the several counties must begin each fiscal
3876 year on or before January 5th and continue monthly for a total
3877 of 4 months. If a local or special law required that any moneys
3878 accruing to a county in fiscal year 1999-2000 under the then-
3879 existing provisions of s. 550.135 be paid directly to the
3880 district school board, special district, or a municipal
3881 government, such payment must continue until the local or
3882 special law is amended or repealed. The state covenants with
3883 holders of bonds or other instruments of indebtedness issued by
3884 local governments, special districts, or district school boards
3885 before July 1, 2000, that it is not the intent of this
3886 subparagraph to adversely affect the rights of those holders or

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3887 relieve local governments, special districts, or district school
3888 boards of the duty to meet their obligations as a result of
3889 previous pledges or assignments or trusts entered into which
3890 obligated funds received from the distribution to county
3891 governments under then-existing s. 550.135. This distribution
3892 specifically is in lieu of funds distributed under s. 550.135
3893 before July 1, 2000.

3894 b. The department shall distribute \$166,667 monthly
3895 pursuant to s. 288.1162 to each applicant certified as a
3896 facility for a new or retained professional sports franchise
3897 pursuant to s. 288.1162. Up to \$41,667 shall be distributed
3898 monthly by the department to each certified applicant as defined
3899 in s. 288.11621 for a facility for a spring training franchise.
3900 However, not more than \$416,670 may be distributed monthly in
3901 the aggregate to all certified applicants for facilities for
3902 spring training franchises. Distributions begin 60 days after
3903 such certification and continue for not more than 30 years,
3904 except as otherwise provided in s. 288.11621. A certified
3905 applicant identified in this sub-subparagraph may not receive
3906 more in distributions than expended by the applicant for the
3907 public purposes provided for in s. 288.1162(5) or s.
3908 288.11621(3).

3909 c. Beginning 30 days after notice by the Office of Tourism,
3910 Trade, and Economic Development to the Department of Revenue
3911 that an applicant has been certified as the professional golf
3912 hall of fame pursuant to s. 288.1168 and is open to the public,
3913 \$166,667 shall be distributed monthly, for up to 300 months, to
3914 the applicant.

3915 d. Beginning 30 days after notice by the Office of Tourism,

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3916 Trade, and Economic Development to the Department of Revenue
3917 that the applicant has been certified as the International Game
3918 Fish Association World Center facility pursuant to s. 288.1169,
3919 and the facility is open to the public, \$83,333 shall be
3920 distributed monthly, for up to 168 months, to the applicant.
3921 This distribution is subject to reduction pursuant to s.
3922 288.1169. A lump sum payment of \$999,996 shall be made, after
3923 certification and before July 1, 2000.

3924 7. All other proceeds must remain in the General Revenue
3925 Fund.

3926 Section 20. Section 213.052, Florida Statutes, is created
3927 to read:

3928 213.052 Notice of state sales and use tax rate changes.—

3929 (1) A sales or use tax rate change imposed under chapter
3930 212 is effective on January 1, April 1, July 1, or October 1.

3931 The Department of Revenue shall provide notice of the rate
3932 change to all affected dealers at least 60 days before the
3933 effective date of the rate change. In addition to other methods,
3934 the department may use telephone, electronic mail, facsimile, or
3935 other electronic means to provide notice.

3936 (2) Failure of a dealer to receive notice does not relieve
3937 the dealer of its obligation to collect sales or use tax.

3938 Section 21. Section 213.0521, Florida Statutes, is created
3939 to read:

3940 213.0521 Effective date of state sales and use tax rate
3941 changes.—The effective date for services covering a period
3942 starting before and ending after the statutory effective date is
3943 as follows:

3944 (1) For a rate increase, the new rate applies to the first

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3945 billing period starting on or after the effective date.

3946 (2) For a rate decrease, the new rate applies to bills
3947 rendered on or after the effective date.

3948 Section 22. Section 213.215, Florida Statutes, is created
3949 to read:

3950 213.215 Sales and use tax amnesty upon registration in
3951 accordance with Streamlined Sales and Use Tax Agreement.—

3952 (1) Amnesty shall be provided for uncollected or unpaid
3953 sales or use tax to a seller who registers to pay or to collect
3954 and remit applicable sales or use tax in accordance with the
3955 terms of the Streamlined Sales and Use Tax Agreement authorized
3956 under s. 213.256 if the seller was not registered with the
3957 Department of Revenue in the 12-month period preceding the
3958 effective date of participation in the agreement by this state.

3959 (2) The amnesty precludes assessment for uncollected or
3960 unpaid sales or use tax, together with penalty or interest for
3961 sales made during the period the seller was not registered with
3962 the Department of Revenue, if registration occurs within 12
3963 months after the effective date of this state's participation in
3964 the agreement.

3965 (3) The amnesty is not available to a seller with respect
3966 to any matter for which the seller received notice of the
3967 commencement of an audit if the audit is not yet finally
3968 resolved, including any related administrative and judicial
3969 processes.

3970 (4) The amnesty is not available for sales or use taxes
3971 already paid or remitted to the state or to taxes collected by
3972 the seller.

3973 (5) The amnesty is fully effective, absent the seller's

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3974 fraud or intentional misrepresentation of a material fact, as
 3975 long as the seller continues registration and continues payment
 3976 or collection and remittance of applicable sales or use taxes
 3977 for at least 36 months.

3978 (6) The amnesty applies only to sales or use taxes due from
 3979 a seller in its capacity as a seller and not to sales or use
 3980 taxes due from a seller in its capacity as a purchaser.

3981 Section 23. Subsections (1) and (2) of section 213.256,
 3982 Florida Statutes, are amended to read:

3983 213.256 Simplified Sales and Use Tax Administration Act.—

3984 (1) As used in this section and s. 213.2567, the term:

3985 (a) "Agent" means, for purposes of carrying out the
 3986 responsibilities placed on a dealer, a person appointed by the
 3987 dealer to represent the dealer before the department.

3988 ~~"Department" means the Department of Revenue.~~

3989 (b) ~~"Agreement" means the Streamlined Sales and Use Tax~~
 3990 ~~Agreement as amended and adopted on January 27, 2001, by the~~
 3991 ~~Executive Committee of the National Conference of State~~
 3992 ~~Legislatures.~~

3993 (c) "Certified automated system" means software certified
 3994 ~~jointly by the state states that are signatories to the~~
 3995 ~~agreement~~ to calculate the tax imposed by each jurisdiction on a
 3996 transaction, determine the amount of tax to remit to the
 3997 appropriate state, and maintain a record of the transaction.

3998 (d) "Certified service provider" means an agent certified
 3999 ~~jointly by the states that are signatories to the agreement to~~
 4000 ~~perform all of the dealer's seller's sales tax functions other~~
 4001 ~~than the dealer's obligation to remit tax on its own purchases.~~

4002 (e) "Dealer" means any person making sales, leases, or

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4003 rentals of personal property or services.

4004 (f) "Department" means the Department of Revenue.

4005 (g) "Governing board" means the governing board overseeing
4006 an agreement with other states to conform the sales and use tax
4007 laws of this state to the terms of the agreement.

4008 (h)1. "Model 1 seller" means a dealer who has selected a
4009 certified service provider as the dealer's agent to perform all
4010 of the dealer's sales and use tax functions other than the
4011 dealer's obligation to remit tax on the dealer's purchases.

4012 2. "Model 2 seller" means a dealer who has selected a
4013 certified automated system to perform part of the dealer's sales
4014 and use tax functions, but retains responsibility for remitting
4015 the tax.

4016 3. "Model 3 seller" means a dealer who has sales in at
4017 least five member states, has total annual sales revenue of at
4018 least \$500 million, has a proprietary system that calculates the
4019 amount of tax due each jurisdiction, and has entered into a
4020 performance agreement with the member states which establishes a
4021 tax performance standard for the dealer. As used in this
4022 subparagraph, a dealer includes an affiliated group of dealers
4023 using the same proprietary system.

4024 4. "Model 4 seller" means a dealer who is registered under
4025 the agreement and is not a model 1, model 2, or model 3 seller.

4026 (i)~~(e)~~ "Person" means an individual, trust, estate,
4027 fiduciary, partnership, limited liability company, limited
4028 liability partnership, corporation, or any other legal entity.

4029 (j) "Registered under this agreement" means registration by
4030 a dealer with the member states under the central registration
4031 system.

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4032 (k)~~(f)~~ "Sales tax" means the tax levied under chapter 212.

4033 ~~(g) "Seller" means any person making sales, leases, or~~
4034 ~~rentals of personal property or services.~~

4035 (l)~~(h)~~ "State" means any state of the United States and the
4036 District of Columbia.

4037 (m)~~(i)~~ "Use tax" means the tax levied under chapter 212.

4038 (2) (a) The executive director of the department is
4039 authorized to ~~shall~~ enter into the agreement ~~the Streamlined~~
4040 ~~Sales and Use Tax Agreement~~ with one or more states to simplify
4041 and modernize sales and use tax administration in order to
4042 substantially reduce the burden of tax compliance for all
4043 dealers ~~sellers~~ and for all types of commerce. In furtherance of
4044 the agreement, the executive director of the department or his
4045 or her designee shall act jointly with other states that are
4046 members of the agreement to establish standards for
4047 certification of a certified service provider and certified
4048 automated systems ~~system~~ and central registration systems
4049 ~~establish performance standards for multistate sellers.~~

4050 (b) The executive director of the department or his or her
4051 designee shall take other actions reasonably required to
4052 administer this section. Other actions authorized by this
4053 section include, but are not limited to, the adoption of rules
4054 and the joint procurement, with other member states, of goods
4055 and services in furtherance of the cooperative agreement.

4056 (c) The executive director of the department or his or her
4057 designee may represent this state before the other states that
4058 are signatories to the agreement.

4059 (d) The executive director of the department or his or her
4060 designee is authorized to prepare and submit from time to time

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4061 reports and certifications that are determined necessary
4062 according to the terms of an agreement and to enter into other
4063 agreements with the governing board, member states, and service
4064 providers which the executive director determines will
4065 facilitate the administration of the tax laws of this state.

4066 Section 24. Section 213.2562, Florida Statutes, is created
4067 to read:

4068 213.2562 Approval of software to calculate tax.—The
4069 department shall review software submitted to the governing
4070 board for certification as an automated system. If the software
4071 accurately reflects the taxability of product categories
4072 included in the program, the department shall certify the
4073 approval of the software to the governing board.

4074 Section 25. Section 213.2567, Florida Statutes, is created
4075 to read:

4076 213.2567 Simplified sales and use tax registration;
4077 certification; liability; and audit.—

4078 (1) A dealer who registers under the agreement agrees to
4079 collect and remit sales and use taxes for all taxable sales into
4080 the member states, including member states joining after the
4081 dealer's registration. Withdrawal or revocation of this state
4082 does not relieve a dealer of its responsibility to remit taxes
4083 previously or subsequently collected on behalf of the state.

4084 (a) When registering, the dealer may select a model 1,
4085 model 2, or model 3 method of remittance or another method
4086 allowed by state law to remit the taxes collected.

4087 (b) A model 2, model 3, or model 4 seller may register in
4088 this state as a seller that does not anticipate having any sales
4089 in this state if the seller did not have any sales in this state

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4090 within the 12 months preceding registration. However, the seller
4091 retains the obligation to collect and remit sales and use tax on
4092 any sale made into this state.

4093 (c) A dealer may be registered by an agent. This
4094 registration must be in writing and submitted to a member state.

4095 (2) (a) A model 1 seller is liable for any sales and use
4096 tax, penalty, and interest due this state. A certified service
4097 provider is the agent of a model 1 seller with whom the
4098 certified service provider has contracted for the collection and
4099 remittance of sales and use taxes. As the model 1 seller's
4100 agent, the certified service provider is jointly and severally
4101 liable with the model 1 seller for sales and use tax, penalty,
4102 and interest due this state on all sales transactions it
4103 processes for the model 1 seller.

4104 (b) A member state may audit model 1 sellers and certified
4105 service providers pursuant to this chapter and chapter 212.
4106 Member states may jointly audit certified service providers.

4107 (3) A model 2 seller that uses a certified automated system
4108 remains responsible and is liable to this state for reporting
4109 and remitting tax. However, a model 2 seller is not responsible
4110 for errors in reliance on a certified automated system.

4111 (4) A model 3 seller is liable for the failure of the
4112 proprietary system to meet the performance standard.

4113 (5) A person who provides a certified automated system is
4114 not liable for errors contained in software that was approved by
4115 the department and certified to the governing board. However,
4116 such person is:

4117 (a) Responsible for the proper functioning of that system;

4118 (b) Liable to this state for underpayments of tax

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4119 attributable to errors in the functioning of the certified
4120 automated system; and

4121 (c) Liable for the misclassification of an item or
4122 transaction that is not corrected within 10 days following the
4123 receipt of notice from the department.

4124 (6) The executive director of the department, or his or her
4125 designee, may certify a person as a certified service provider
4126 if the person:

4127 (a) Uses a certified automated system;

4128 (b) Integrates its certified automated system with the
4129 system of a dealer for whom the person collects tax so that the
4130 tax due on a sale is determined at the time of the sale;

4131 (c) Agrees to remit the taxes it collects at the time and
4132 in the manner specified by chapter 212;

4133 (d) Agrees to file returns on behalf of the dealers for
4134 whom the person collects tax;

4135 (e) Agrees to protect the privacy of tax information the
4136 person obtains in accordance with s. 213.053; and

4137 (f) Enters into a written agreement with the department
4138 concerning the disclosure of information and agrees to comply
4139 with the terms of the written agreement.

4140 (7) The department shall review software submitted to the
4141 governing board for certification as a certified automated
4142 system. The executive director of the department shall certify
4143 the approval of the software to the governing board if the
4144 software:

4145 (a) Determines the applicable state and local sales and use
4146 tax rate for a transaction in accordance with s. 212.06(3) and
4147 (4);

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4148 (b) Correctly determines whether an item is exempt from
4149 tax;

4150 (c) Correctly determines the amount of tax to be remitted
4151 for each taxpayer for a reporting period; and

4152 (d) Can generate reports and returns as required by the
4153 governing board.

4154 (8) The department may by rule establish one or more sales
4155 tax performance standards for model 3 sellers.

4156 (9) Disclosure of information necessary under this section
4157 must be made according to a written agreement between the
4158 executive director of the department or his or her designee and
4159 the certified service provider. The certified service provider
4160 is bound by the same requirements of confidentiality as the
4161 department employees. Breach of confidentiality is a misdemeanor
4162 of the first degree, punishable as provided in s. 775.082 or s.
4163 775.083.

4164 Section 26. The executive director of the Department of
4165 Revenue may adopt emergency rules to implement this act.
4166 Notwithstanding any other law, the emergency rules shall remain
4167 effective for 6 months after the date of adoption and may be
4168 renewed during the pendency of procedures to adopt rules
4169 addressing the subject of the emergency rules.

4170 Section 27. The President of the Senate and the Speaker of
4171 the House of Representatives shall create a joint select
4172 committee to study alternatives for the modernization,
4173 simplification, and streamlining of the various taxes in this
4174 state, including, but not limited to, issues such as further
4175 simplification of the communications services tax. The committee
4176 shall also study how sales and use tax exemptions may be used to

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4177 encourage economic development and how this state's corporate
 4178 income tax may be revised to ensure fairness to all businesses.

4179 Section 28. Paragraph (a) of subsection (5) of section
 4180 11.45, Florida Statutes, is amended to read:

4181 11.45 Definitions; duties; authorities; reports; rules.—

4182 (5) PETITION FOR AN AUDIT BY THE AUDITOR GENERAL.—

4183 (a) The Legislative Auditing Committee shall direct the
 4184 Auditor General to make an audit of any municipality whenever
 4185 petitioned to do so by at least 20 percent of the registered
 4186 electors in the last general election of that municipality
 4187 pursuant to this subsection. The supervisor of elections of the
 4188 county in which the municipality is located shall certify
 4189 whether or not the petition contains the signatures of at least
 4190 20 percent of the registered electors of the municipality. After
 4191 the completion of the audit, the Auditor General shall determine
 4192 whether the municipality has the fiscal resources necessary to
 4193 pay the cost of the audit. The municipality shall pay the cost
 4194 of the audit within 90 days after the Auditor General's
 4195 determination that the municipality has the available resources.
 4196 If the municipality fails to pay the cost of the audit, the
 4197 Department of Revenue shall, upon certification of the Auditor
 4198 General, withhold from that portion of the distribution pursuant
 4199 to s. 212.20(5)(d)5. ~~s. 212.20(6)(d)5.~~ which is distributable to
 4200 such municipality, a sum sufficient to pay the cost of the audit
 4201 and shall deposit that sum into the General Revenue Fund of the
 4202 state.

4203 Section 29. Subsection (6) of section 196.012, Florida
 4204 Statutes, is amended to read:

4205 196.012 Definitions.—For the purpose of this chapter, the

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4206 following terms are defined as follows, except where the context
4207 clearly indicates otherwise:

4208 (6) Governmental, municipal, or public purpose or function
4209 shall be deemed to be served or performed when the lessee under
4210 any leasehold interest created in property of the United States,
4211 the state or any of its political subdivisions, or any
4212 municipality, agency, special district, authority, or other
4213 public body corporate of the state is demonstrated to perform a
4214 function or serve a governmental purpose that ~~which~~ could
4215 properly be performed or served by an appropriate governmental
4216 unit or that ~~which~~ is demonstrated to perform a function or
4217 serve a purpose that ~~which~~ would otherwise be a valid subject
4218 for the allocation of public funds. For purposes of the
4219 preceding sentence, an activity undertaken by a lessee which is
4220 permitted under the terms of its lease of real property
4221 designated as an aviation area on an airport layout plan that
4222 ~~which~~ has been approved by the Federal Aviation Administration
4223 and which real property is used for the administration,
4224 operation, business offices and activities related specifically
4225 thereto in connection with the conduct of an aircraft full-
4226 service, fixed-base ~~full service fixed base~~ operation that ~~which~~
4227 provides goods and services to the general aviation public in
4228 the promotion of air commerce shall be deemed an activity that
4229 ~~which~~ serves a governmental, municipal, or public purpose or
4230 function. Any activity undertaken by a lessee which is permitted
4231 under the terms of its lease of real property designated as a
4232 public airport as defined in s. 332.004(14) by municipalities,
4233 agencies, special districts, authorities, or other public bodies
4234 corporate and public bodies politic of the state, a spaceport as

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4235 defined in s. 331.303, or which is located in a deepwater port
4236 identified in s. 403.021(9)(b) and owned by one of the foregoing
4237 governmental units, subject to a leasehold or other possessory
4238 interest of a nongovernmental lessee that is deemed to perform
4239 an aviation, airport, aerospace, maritime, or port purpose or
4240 operation shall be deemed an activity that serves a
4241 governmental, municipal, or public purpose. The use by a lessee,
4242 licensee, or management company of real property or a portion
4243 thereof as a convention center, visitor center, sports facility
4244 with permanent seating, concert hall, arena, stadium, park, or
4245 beach is deemed a use that serves a governmental, municipal, or
4246 public purpose or function when access to the property is open
4247 to the general public with or without a charge for admission. If
4248 property deeded to a municipality by the United States is
4249 subject to a requirement that the Federal Government, through a
4250 schedule established by the Secretary of the Interior, determine
4251 that the property is being maintained for public historic
4252 preservation, park, or recreational purposes and if those
4253 conditions are not met the property will revert back to the
4254 Federal Government, then such property shall be deemed to serve
4255 a municipal or public purpose. The term "governmental purpose"
4256 also includes a direct use of property on federal lands in
4257 connection with the Federal Government's Space Exploration
4258 Program or spaceport activities as defined in s. 212.02 ~~s.~~
4259 ~~212.02(22)~~. Real property and tangible personal property owned
4260 by the Federal Government or Space Florida and used for defense
4261 and space exploration purposes or which is put to a use in
4262 support thereof shall be deemed to perform an essential national
4263 governmental purpose and shall be exempt. "Owned by the lessee"

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4264 as used in this chapter does not include personal property,
4265 buildings, or other real property improvements used for the
4266 administration, operation, business offices and activities
4267 related specifically thereto in connection with the conduct of
4268 an aircraft full-service, fixed-base ~~full-service fixed based~~
4269 operation that ~~which~~ provides goods and services to the general
4270 aviation public in the promotion of air commerce, provided that
4271 the real property is designated as an aviation area on an
4272 airport layout plan approved by the Federal Aviation
4273 Administration. For purposes of determination of "ownership,"
4274 buildings and other real property improvements that ~~which~~ will
4275 revert to the airport authority or other governmental unit upon
4276 expiration of the term of the lease shall be deemed "owned" by
4277 the governmental unit and not the lessee. Providing two-way
4278 telecommunications services to the public for hire by the use of
4279 a telecommunications facility, as defined in s. 364.02 ~~s.~~
4280 ~~364.02(15)~~, and for which a certificate is required under
4281 chapter 364 does not constitute an exempt use for purposes of s.
4282 196.199, unless the telecommunications services are provided by
4283 the operator of a public-use airport, as defined in s. 332.004,
4284 for the operator's provision of telecommunications services for
4285 the airport or its tenants, concessionaires, or licensees, or
4286 unless the telecommunications services are provided by a public
4287 hospital.

4288 Section 30. Paragraph (b) of subsection (1) and paragraph
4289 (b) of subsection (2) of section 202.18, Florida Statutes, are
4290 amended to read:

4291 202.18 Allocation and disposition of tax proceeds.—The
4292 proceeds of the communications services taxes remitted under

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4293 this chapter shall be treated as follows:

4294 (1) The proceeds of the taxes remitted under s.
4295 202.12(1)(a) shall be divided as follows:

4296 (b) The remaining portion shall be distributed according to
4297 s. 212.20(5) ~~s. 212.20(6)~~.

4298 (2) The proceeds of the taxes remitted under s.
4299 202.12(1)(b) shall be divided as follows:

4300 (b) Sixty-three percent of the remainder shall be allocated
4301 to the state and distributed pursuant to s. 212.20(5)(d)2. ~~s.~~
4302 ~~212.20(6)~~, except that the proceeds allocated pursuant to s.
4303 212.20(5)(d)2. ~~s. 212.20(6)(d)2.~~ shall be prorated to the
4304 participating counties in the same proportion as that month's
4305 collection of the taxes and fees imposed pursuant to chapter 212
4306 and paragraph (1)(b).

4307 Section 31. Paragraphs (f), (g), (h), and (i) of subsection
4308 (1) of section 203.01, Florida Statutes, are amended to read:

4309 203.01 Tax on gross receipts for utility and communications
4310 services.—

4311 (1)

4312 (f) Any person who imports into this state electricity,
4313 natural gas, or manufactured gas, or severs natural gas, for
4314 that person's own use or consumption as a substitute for
4315 purchasing utility, transportation, or delivery services taxable
4316 under this chapter and who cannot demonstrate payment of the tax
4317 imposed by this chapter must register with the Department of
4318 Revenue and pay into the State Treasury each month an amount
4319 equal to the cost price of such electricity, natural gas, or
4320 manufactured gas times the rate set forth in paragraph (b),
4321 reduced by the amount of any like tax lawfully imposed on and

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4322 paid by the person from whom the electricity, natural gas, or
4323 manufactured gas was purchased or any person who provided
4324 delivery service or transportation service in connection with
4325 the electricity, natural gas, or manufactured gas. For purposes
4326 of this paragraph, the term "cost price" has the meaning
4327 ascribed in s. 212.02 ~~s. 212.02(4)~~. The methods of demonstrating
4328 proof of payment and the amount of such reductions in tax shall
4329 be made according to rules of the Department of Revenue.

4330 (g) Electricity produced by cogeneration or by small power
4331 producers which is transmitted and distributed by a public
4332 utility between two locations of a customer of the utility
4333 pursuant to s. 366.051 is subject to the tax imposed by this
4334 section. The tax shall be applied to the cost price of such
4335 electricity as provided in s. 212.02 ~~s. 212.02(4)~~ and shall be
4336 paid each month by the producer of such electricity.

4337 (h) Electricity produced by cogeneration or by small power
4338 producers during the 12-month period ending June 30 of each year
4339 which is in excess of nontaxable electricity produced during the
4340 12-month period ending June 30, 1990, is subject to the tax
4341 imposed by this section. The tax shall be applied to the cost
4342 price of such electricity as provided in s. 212.02 ~~s. 212.02(4)~~
4343 and shall be paid each month, beginning with the month in which
4344 total production exceeds the production of nontaxable
4345 electricity for the 12-month period ending June 30, 1990. For
4346 purposes of this paragraph, "nontaxable electricity" means
4347 electricity produced by cogeneration or by small power producers
4348 which is not subject to tax under paragraph (g). Taxes paid
4349 pursuant to paragraph (g) may be credited against taxes due
4350 under this paragraph. Electricity generated as part of an

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4351 industrial manufacturing process that ~~which~~ manufactures
4352 products from phosphate rock, raw wood fiber, paper, citrus, or
4353 any agricultural product shall not be subject to the tax imposed
4354 by this paragraph. "Industrial manufacturing process" means the
4355 entire process conducted at the location where the process takes
4356 place.

4357 (i) Any person other than a cogenerator or small power
4358 producer described in paragraph (h) who produces for his or her
4359 own use electrical energy that ~~which~~ is a substitute for
4360 electrical energy produced by an electric utility as defined in
4361 s. 366.02 is subject to the tax imposed by this section. The tax
4362 shall be applied to the cost price of such electrical energy as
4363 provided in s. 212.02 ~~s. 212.02(4)~~ and shall be paid each month.
4364 The provisions of this paragraph do not apply to any electrical
4365 energy produced and used by an electric utility.

4366 Section 32. Subsection (1) of section 212.052, Florida
4367 Statutes, is amended to read:

4368 212.052 Research or development costs; exemption.—

4369 (1) For the purposes of the exemption provided in this
4370 section:

4371 (a) The term "research or development" means research that
4372 ~~which~~ has one of the following as its ultimate goal:

- 4373 1. Basic research in a scientific field of endeavor.
- 4374 2. Advancing knowledge or technology in a scientific or
4375 technical field of endeavor.
- 4376 3. The development of a new product, whether or not the new
4377 product is offered for sale.
- 4378 4. The improvement of an existing product, whether or not
4379 the improved product is offered for sale.

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4380 5. The development of new uses of an existing product,
4381 whether or not a new use is offered as a rationale to purchase
4382 the product.

4383 6. The design and development of prototypes, whether or not
4384 a resulting product is offered for sale.

4385

4386 The term "research or development" does not include ordinary
4387 testing or inspection of materials or products used for quality
4388 control, market research, efficiency surveys, consumer surveys,
4389 advertising and promotions, management studies, or research in
4390 connection with literary, historical, social science,
4391 psychological, or other similar nontechnical activities.

4392 (b) The term "costs" means cost price as defined in s.
4393 212.02 ~~s. 212.02(4)~~.

4394 (c) The term "product" means any item, device, technique,
4395 prototype, invention, or process that ~~which~~ is, was, or may be
4396 commercially exploitable.

4397 Section 33. Subsection (3) of section 212.13, Florida
4398 Statutes, is amended to read:

4399 212.13 Records required to be kept; power to inspect; audit
4400 procedure.—

4401 (3) For the purpose of enforcement of this chapter, every
4402 manufacturer and seller of tangible personal property or
4403 services licensed within this state is required to permit the
4404 department to examine his or her books and records at all
4405 reasonable hours, and, upon his or her refusal, the department
4406 may require him or her to permit such examination by resort to
4407 the circuit courts of this state, subject however to the right
4408 of removal of the cause to the judicial circuit wherein such

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4409 person's business is located or wherein such person's books and
4410 records are kept, provided further that such person's books and
4411 records are kept within the state. When the dealer has made an
4412 allocation or attribution pursuant to the definition of sales
4413 price in s. 212.02 ~~s. 212.02(16)~~, the department may prescribe
4414 by rule the books and records that must be made available during
4415 an audit of the dealer's books and records and examples of
4416 methods for determining the reasonableness thereof. Books and
4417 records kept in the regular course of business include, but are
4418 not limited to, general ledgers, price lists, cost records,
4419 customer billings, billing system reports, tariffs, and other
4420 regulatory filings and rules of regulatory authorities. Such
4421 record may be required to be made available to the department in
4422 an electronic format when so kept by the dealer. The dealer may
4423 support the allocation of charges with books and records kept in
4424 the regular course of business covering the dealer's entire
4425 service area, including territories outside this state. During
4426 an audit, the department may reasonably require production of
4427 any additional books and records found necessary to assist in
4428 its determination.

4429 Section 34. Section 212.081, Florida Statutes, is amended
4430 to read:

4431 212.081 Legislative intent.—It is hereby declared to be the
4432 legislative intent of the amendments to ss. 212.11(1)~~7~~
4433 ~~212.12(10)~~, and 212.20 by chapter 57-398, Laws of Florida:

4434 (1) To aid in the enforcement of this chapter by
4435 recognizing the effect of court rulings involving such
4436 enforcement and to incorporate herein substantial rulings of the
4437 department which have been recognized as necessary to supplement

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4438 the interpretation of some of the terms used in this section.

4439 (2) To arrange the exemptions allowed in this section in
4440 more orderly categories thereby eliminating some of the
4441 confusion attendant upon the present arrangement where cross-
4442 exemptions frequently occur.

4443 (a) It is further declared to be the legislative intent
4444 that the tax levied by this chapter and imposed by this section
4445 is not a tax on motor vehicles as property but a tax on the
4446 privilege to sell, to rent, to use or to store for use in this
4447 state motor vehicles; that such tax is separate from and in
4448 addition to any license tax imposed on motor vehicles; and that
4449 such tax is not intended as an ad valorem tax on motor vehicles
4450 as prohibited by the Constitution.

4451 (b) It is also the legislative intent that there shall be
4452 no pyramiding or duplication of excise taxes levied by the state
4453 under this chapter and no municipality shall levy any excise tax
4454 upon any privilege, admission, lease, rental, sale, use or
4455 storage for use or consumption which is subject to a tax under
4456 this chapter unless permitted by general law; provided, however,
4457 that this provision shall not impair valid municipal ordinances
4458 which are in effect and under which a municipal tax is being
4459 levied and collected on July 1, 1957.

4460 (3) It is hereby declared to be the legislative intent that
4461 all purchases made by banks are subject to state sales tax in
4462 the same manner as is provided by law for all other purchasers.
4463 It is further declared to be the legislative intent that if for
4464 any reason the sales tax on federal banks is declared invalid,
4465 that sales tax shall not apply or be applicable to purchases
4466 made by state banks.

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4467 Section 35. Subsection (3) of section 218.245, Florida
4468 Statutes, is amended to read:

4469 218.245 Revenue sharing; apportionment.—

4470 (3) Revenues attributed to the increase in distribution to
4471 the Revenue Sharing Trust Fund for Municipalities pursuant to s.
4472 212.20(5)(d)5. ~~s. 212.20(6)(d)5.~~ from 1.0715 percent to 1.3409
4473 percent provided in chapter 2003-402, Laws of Florida, shall be
4474 distributed to each eligible municipality and any unit of local
4475 government that is consolidated as provided by s. 9, Art. VIII
4476 of the State Constitution of 1885, as preserved by s. 6(e), Art.
4477 VIII, 1968 revised constitution, as follows: each eligible local
4478 government's allocation shall be based on the amount it received
4479 from the half-cent sales tax under s. 218.61 in the prior state
4480 fiscal year divided by the total receipts under s. 218.61 in the
4481 prior state fiscal year for all eligible local governments.
4482 However, for the purpose of calculating this distribution, the
4483 amount received from the half-cent sales tax under s. 218.61 in
4484 the prior state fiscal year by a unit of local government which
4485 is consolidated as provided by s. 9, Art. VIII of the State
4486 Constitution of 1885, as amended, and as preserved by s. 6(e),
4487 Art. VIII, of the Constitution as revised in 1968, shall be
4488 reduced by 50 percent for such local government and for the
4489 total receipts. For eligible municipalities that began
4490 participating in the allocation of half-cent sales tax under s.
4491 218.61 in the previous state fiscal year, their annual receipts
4492 shall be calculated by dividing their actual receipts by the
4493 number of months they participated, and the result multiplied by
4494 12.

4495 Section 36. Subsections (5), (6), and (7) of section

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4496 218.65, Florida Statutes, are amended to read:

4497 218.65 Emergency distribution.—

4498 (5) At the beginning of each fiscal year, the Department of
4499 Revenue shall calculate a base allocation for each eligible
4500 county equal to the difference between the current per capita
4501 limitation times the county's population, minus prior year
4502 ordinary distributions to the county pursuant to ss.
4503 212.20(5)(d)2., 218.61, and 218.62 ~~ss. 212.20(6)(d)2., 218.61,~~
4504 ~~and 218.62.~~ If moneys deposited into the Local Government Half-
4505 cent Sales Tax Clearing Trust Fund pursuant to s. 212.20(5)(d)3.
4506 ~~s. 212.20(6)(d)3.,~~ excluding moneys appropriated for
4507 supplemental distributions pursuant to subsection (8), for the
4508 current year are less than or equal to the sum of the base
4509 allocations, each eligible county shall receive a share of the
4510 appropriated amount proportional to its base allocation. If the
4511 deposited amount exceeds the sum of the base allocations, each
4512 county shall receive its base allocation, and the excess
4513 appropriated amount, less any amounts distributed under
4514 subsection (6), shall be distributed equally on a per capita
4515 basis among the eligible counties.

4516 (6) If moneys deposited in the Local Government Half-cent
4517 Sales Tax Clearing Trust Fund pursuant to s. 212.20(5)(d)3. ~~s.~~
4518 ~~212.20(6)(d)3.~~ exceed the amount necessary to provide the base
4519 allocation to each eligible county, the moneys in the trust fund
4520 may be used to provide a transitional distribution, as specified
4521 in this subsection, to certain counties whose population has
4522 increased. The transitional distribution shall be made available
4523 to each county that qualified for a distribution under
4524 subsection (2) in the prior year but does not, because of the

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4525 requirements of paragraph (2)(a), qualify for a distribution in
4526 the current year. Beginning on July 1 of the year following the
4527 year in which the county no longer qualifies for a distribution
4528 under subsection (2), the county shall receive two-thirds of the
4529 amount received in the prior year, and beginning July 1 of the
4530 second year following the year in which the county no longer
4531 qualifies for a distribution under subsection (2), the county
4532 shall receive one-third of the amount it received in the last
4533 year it qualified for the distribution under subsection (2). If
4534 insufficient moneys are available in the Local Government Half-
4535 cent Sales Tax Clearing Trust Fund to fully provide such a
4536 transitional distribution to each county that meets the
4537 eligibility criteria in this section, each eligible county shall
4538 receive a share of the available moneys proportional to the
4539 amount it would have received had moneys been sufficient to
4540 fully provide such a transitional distribution to each eligible
4541 county.

4542 (7) There is hereby annually appropriated from the Local
4543 Government Half-cent Sales Tax Clearing Trust Fund the
4544 distribution provided in s. 212.20(5)(d)3. ~~s. 212.20(6)(d)3.~~ to
4545 be used for emergency and supplemental distributions pursuant to
4546 this section.

4547 Section 37. Paragraph (s) of subsection (1) of section
4548 288.1045, Florida Statutes, is amended to read:

4549 288.1045 Qualified defense contractor and space flight
4550 business tax refund program.—

4551 (1) DEFINITIONS.—As used in this section:

4552 (s) "Space flight business" means the manufacturing,
4553 processing, or assembly of space flight technology products,

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4554 space flight facilities, space flight propulsion systems, or
4555 space vehicles, satellites, or stations of any kind possessing
4556 the capability for space flight, as defined by s. 212.02 ~~s.~~
4557 ~~212.02(23)~~, or components thereof, and includes, in supporting
4558 space flight, vehicle launch activities, flight operations,
4559 ground control or ground support, and all administrative
4560 activities directly related to such activities. The term does
4561 not include products that are designed or manufactured for
4562 general commercial aviation or other uses even if those products
4563 may also serve an incidental use in space flight applications.

4564 Section 38. Paragraphs (a) and (d) of subsection (3) of
4565 section 288.11621, Florida Statutes, are amended to read:

4566 288.11621 Spring training baseball franchises.—

4567 (3) USE OF FUNDS.—

4568 (a) A certified applicant may use funds provided under s.
4569 212.20(5)(d)6.b. ~~s. 212.20(6)(d)6.b.~~ only to:

4570 1. Serve the public purpose of acquiring, constructing,
4571 reconstructing, or renovating a facility for a spring training
4572 franchise.

4573 2. Pay or pledge for the payment of debt service on, or to
4574 fund debt service reserve funds, arbitrage rebate obligations,
4575 or other amounts payable with respect thereto, bonds issued for
4576 the acquisition, construction, reconstruction, or renovation of
4577 such facility, or for the reimbursement of such costs or the
4578 refinancing of bonds issued for such purposes.

4579 3. Assist in the relocation of a spring training franchise
4580 from one unit of local government to another only if the
4581 governing board of the current host local government by a
4582 majority vote agrees to relocation.

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4583 (d)1. All certified applicants must place unexpended state
4584 funds received pursuant to s. 212.20(5)(d)6.b. ~~s.~~
4585 ~~212.20(6)(d)6.b.~~ in a trust fund or separate account for use
4586 only as authorized in this section.

4587 2. A certified applicant may request that the Department of
4588 Revenue suspend further distributions of state funds made
4589 available under s. 212.20(5)(d)6.b. ~~s. 212.20(6)(d)6.b.~~ for 12
4590 months after expiration of an existing agreement with a spring
4591 training franchise to provide the certified applicant with an
4592 opportunity to enter into a new agreement with a spring training
4593 franchise, at which time the distributions shall resume.

4594 3. The expenditure of state funds distributed to an
4595 applicant certified before July 1, 2010, must begin within 48
4596 months after the initial receipt of the state funds. In
4597 addition, the construction of, or capital improvements to, a
4598 spring training facility must be completed within 24 months
4599 after the project's commencement.

4600 Section 39. Subsection (6) of section 288.1169, Florida
4601 Statutes, is amended to read:

4602 288.1169 International Game Fish Association World Center
4603 facility.—

4604 (6) The Department of Commerce must recertify every 10
4605 years that the facility is open, that the International Game
4606 Fish Association World Center continues to be the only
4607 international administrative headquarters, fishing museum, and
4608 Hall of Fame in the United States recognized by the
4609 International Game Fish Association, and that the project is
4610 meeting the minimum projections for attendance or sales tax
4611 revenues as required at the time of original certification. If

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4612 the facility is not recertified during this 10-year review as
4613 meeting the minimum projections, then funding shall be abated
4614 until certification criteria are met. If the project fails to
4615 generate \$1 million of annual revenues pursuant to paragraph
4616 (2) (e), the distribution of revenues pursuant to s.
4617 212.20 (5) (d) 6.b. ~~s. 212.20 (6) (d) 6.d.~~ shall be reduced to an
4618 amount equal to \$83,333 multiplied by a fraction, the numerator
4619 of which is the actual revenues generated and the denominator of
4620 which is \$1 million. Such reduction remains in effect until
4621 revenues generated by the project in a 12-month period equal or
4622 exceed \$1 million.

4623 Section 40. Subsection (8) of section 551.102, Florida
4624 Statutes, is amended to read:

4625 551.102 Definitions.—As used in this chapter, the term:

4626 (8) "Slot machine" means any mechanical or electrical
4627 contrivance, terminal that may or may not be capable of
4628 downloading slot games from a central server system, machine, or
4629 other device that, upon insertion of a coin, bill, ticket,
4630 token, or similar object or upon payment of any consideration
4631 whatsoever, including the use of any electronic payment system
4632 except a credit card or debit card, is available to play or
4633 operate, the play or operation of which, whether by reason of
4634 skill or application of the element of chance or both, may
4635 deliver or entitle the person or persons playing or operating
4636 the contrivance, terminal, machine, or other device to receive
4637 cash, billets, tickets, tokens, or electronic credits to be
4638 exchanged for cash or to receive merchandise or anything of
4639 value whatsoever, whether the payoff is made automatically from
4640 the machine or manually. The term includes associated equipment

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4641 necessary to conduct the operation of the contrivance, terminal,
4642 machine, or other device. Slot machines may use spinning reels,
4643 video displays, or both. A slot machine is not a "coin-operated
4644 amusement machine" as defined in s. 212.02 ~~s. 212.02(24)~~ or an
4645 amusement game or machine as described in s. 849.161, and slot
4646 machines are not subject to the tax imposed by s. 212.05(1)(h).

4647 Section 41. Paragraph (a) of subsection (1) of section
4648 790.0655, Florida Statutes, is amended to read:

4649 790.0655 Purchase and delivery of handguns; mandatory
4650 waiting period; exceptions; penalties.—

4651 (1)(a) There shall be a mandatory ~~3-day~~ waiting period,
4652 which shall be 3 days, excluding weekends and legal holidays,
4653 between the purchase and the delivery at retail of any handgun.
4654 "Purchase" means the transfer of money or other valuable
4655 consideration to the retailer. "Handgun" means a firearm capable
4656 of being carried and used by one hand, such as a pistol or
4657 revolver. "Retailer" means and includes every person engaged in
4658 the business of making sales at retail or for distribution, or
4659 use, or consumption, or storage to be used or consumed in this
4660 state, as defined in s. 212.02 ~~s. 212.02(13)~~.

4661 Section 42. Section 212.0596, Florida Statutes, is
4662 repealed.

4663 Section 43. This act shall take effect January 1, 2012.