

1                                   A bill to be entitled  
 2           An act relating to taxes on prepaid calling  
 3           arrangements; amending ss. 202.11 and 212.05, F.S.;  
 4           revising the definition of "prepaid calling  
 5           arrangement" to clarify and update which services are  
 6           included under that definition and subject to a sales  
 7           tax; providing for retroactive application; providing  
 8           an effective date.

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

11  
 12           Section 1. Subsection (9) of section 202.11, Florida  
 13   Statutes, is amended to read:

14           202.11 Definitions.—As used in this chapter, the term:

15           (9) "Prepaid calling arrangement" means: the separately  
 16 ~~stated retail sale by advance payment of~~

17           (a) A right to use communications services, other than  
 18 mobile communications services, for which a separately stated  
 19 price must be paid in advance, which is sold at retail in  
 20 predetermined units that decline in number with use on a  
 21 predetermined basis, and which ~~that~~ consist exclusively of  
 22 telephone calls originated by using an access number,  
 23 authorization code, or other means that may be manually,  
 24 electronically, or otherwise entered; or ~~and that are sold in~~  
 25 ~~predetermined units or dollars of which the number declines with~~  
 26 ~~use in a known amount.~~

27        (b) A right to use mobile communications services that  
 28 must be paid for in advance and is sold at retail in  
 29 predetermined units that expire or decline in number on a  
 30 predetermined basis if:

31            1. The purchaser's right to use mobile communications  
 32 services terminates upon all purchased units expiring or being  
 33 exhausted unless the purchaser pays for additional units;

34            2. The purchaser is not required to purchase additional  
 35 units; and

36            3. Any right of the purchaser to use units to obtain  
 37 communications services other than mobile communications  
 38 services is limited to services that are provided to or through  
 39 the same handset or other electronic device that is used by the  
 40 purchaser to access mobile communications services.

41  
 42 Predetermined units described in this subsection may be  
 43 quantified as amounts of usage, time, money, or a combination of  
 44 these or other means of measurement.

45            Section 2. Paragraph (e) of subsection (1) of section  
 46 212.05, Florida Statutes, is amended to read:

47            212.05 Sales, storage, use tax.—It is hereby declared to  
 48 be the legislative intent that every person is exercising a  
 49 taxable privilege who engages in the business of selling  
 50 tangible personal property at retail in this state, including  
 51 the business of making mail order sales, or who rents or  
 52 furnishes any of the things or services taxable under this

53 chapter, or who stores for use or consumption in this state any  
54 item or article of tangible personal property as defined herein  
55 and who leases or rents such property within the state.

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

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

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

63 (I) "Prepaid calling arrangement" has the same meaning as  
64 provided in s. 202.11 ~~means the separately stated retail sale by~~  
65 ~~advance payment of communications services that consist~~  
66 ~~exclusively of telephone calls originated by using an access~~  
67 ~~number, authorization code, or other means that may be manually,~~  
68 ~~electronically, or otherwise entered and that are sold in~~  
69 ~~predetermined units or dollars whose number declines with use in~~  
70 ~~a known amount.~~

71 (II) If the sale or recharge of the prepaid calling  
72 arrangement does not take place at the dealer's place of  
73 business, it shall be deemed to have taken ~~take~~ place at the  
74 customer's shipping address or, if no item is shipped, at the  
75 customer's address or the location associated with the  
76 customer's mobile telephone number.

77 (III) The sale or recharge of a prepaid calling  
78 arrangement shall be treated as a sale of tangible personal

79 property for purposes of this chapter, whether or not a tangible  
80 item evidencing such arrangement is furnished to the purchaser,  
81 and such sale within this state subjects the selling dealer to  
82 the jurisdiction of this state for purposes of this subsection.

83 (IV) No additional tax under this chapter or chapter 202  
84 is due or payable if a purchaser of a prepaid calling  
85 arrangement, who has paid tax under this chapter on the sale or  
86 recharge of such arrangement, applies one or more units of the  
87 prepaid calling arrangement to obtain communications services as  
88 described in s. 202.11(9)(b)3., other services that are not  
89 communications services, or products.

90 b. The installation of telecommunication and telegraphic  
91 equipment.

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

94 2. The provisions of s. 212.17(3), regarding credit for  
95 tax paid on charges subsequently found to be worthless, are  
96 ~~shall be~~ equally applicable to any tax paid under ~~the provisions~~  
97 ~~of~~ this section on charges for prepaid calling arrangements,  
98 telecommunication or telegraph services, or electric power  
99 subsequently found to be uncollectible. The term ~~word~~ "charges"  
100 under ~~in~~ this paragraph does not include any excise or similar  
101 tax levied by the Federal Government, any political subdivision  
102 of this ~~the~~ state, or any municipality upon the purchase, sale,  
103 or recharge of prepaid calling arrangements or upon the purchase  
104 or sale of telecommunication, television system program, or

HB 847

2014

105 telegraph service or electric power, which tax is collected by  
106 the seller from the purchaser.

107 Section 3. The amendments made by this act are intended to  
108 be remedial in nature and apply retroactively, but do not  
109 provide a basis for an assessment of any tax not paid or create  
110 a right to a refund or credit of any tax paid before the  
111 effective date of this act.

112 Section 4. Except as otherwise expressly provided in  
113 section 3 of this act, this act shall take effect July 1, 2014.