

1 A bill to be entitled
2 An act relating to the sales and use tax; amending s.
3 212.02, F.S.; revising the definition of the term
4 "retail sale"; amending s. 212.05, F.S.; conforming a
5 provision to changes made by the act; amending s.
6 212.0596, F.S.; renaming the term "mail order sale" to
7 "remote sale" and revising the definition; revising
8 conditions under which certain dealers are subject to
9 sales tax levies and collection; defining the term
10 "making a substantial number of remote sales";
11 deleting an exemption for certain dealers from
12 collecting local option surtaxes; conforming
13 provisions to changes made by the act; creating s.
14 212.05965, F.S.; defining terms; providing that
15 certain marketplace providers are subject to
16 registration, collection, and remittance requirements
17 for sales taxes; requiring marketplace providers to
18 provide a certain certification to their marketplace
19 sellers; specifying requirements for marketplace
20 sellers; requiring marketplace providers to allow the
21 Department of Revenue to examine and audit their books
22 and records; specifying the examination and audit
23 authority of the department; providing that a
24 marketplace seller, and not the marketplace provider,
25 is liable for sales tax collection and remittance

26 | under certain circumstances; authorizing marketplace
27 | providers and marketplace sellers to enter into
28 | agreements for the recovery of certain taxes,
29 | interest, and penalties; authorizing the department to
30 | settle and compromise taxes, interest, and penalties
31 | assessed on sales conducted through a marketplace;
32 | providing construction and applicability; amending s.
33 | 212.06, F.S.; conforming provisions to changes made by
34 | the act; amending s. 212.12, F.S.; deleting an
35 | exclusion relating to certain dealers who are allowed
36 | a dealer's credit for collecting tax; deleting the
37 | authority of the department's executive director to
38 | negotiate a collection allowance with certain dealers;
39 | conforming a provision to changes made by the act;
40 | amending s. 212.18, F.S.; conforming a provision to
41 | changes made by the act; reenacting s. 212.20(4),
42 | F.S., relating to refunds of taxes adjudicated
43 | unconstitutionally collected, to incorporate the
44 | amendment made to s. 212.0596, F.S., in a reference
45 | thereto; amending s. 213.27, F.S.; conforming
46 | provisions to changes made by the act; authorizing the
47 | department to adopt emergency rules; authorizing the
48 | renewal of emergency rules under specified
49 | circumstances; providing for expiration of the
50 | authority; providing effective dates.

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

Section 1. Paragraph (e) of subsection (14) of section 212.02, Florida Statutes, is amended to read:

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

(14)

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

Section 2. Effective October 1, 2021, paragraph (f) is added to subsection (14) of section 212.02, Florida Statutes, to read:

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

(14)

(f) The term "retail sale" includes a sale facilitated through a marketplace as defined in s. 212.05965(1).

Section 3. Section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to

76 | be the legislative intent that every person is exercising a
77 | taxable privilege who engages in the business of selling
78 | tangible personal property at retail in this state, including
79 | the business of making remote ~~mail order~~ sales; ~~or~~ who rents or
80 | furnishes any of the things or services taxable under this
81 | chapter; ~~or~~ who stores for use or consumption in this state any
82 | item or article of tangible personal property as defined herein
83 | and who leases or rents such property within the state.

84 | (1) For the exercise of such privilege, a tax is levied on
85 | each taxable transaction or incident, which tax is due and
86 | payable as follows:

87 | (a)1.a. At the rate of 6 percent of the sales price of
88 | each item or article of tangible personal property when sold at
89 | retail in this state, computed on each taxable sale for the
90 | purpose of remitting the amount of tax due the state, and
91 | including each and every retail sale.

92 | b. Each occasional or isolated sale of an aircraft, boat,
93 | mobile home, or motor vehicle of a class or type which is
94 | required to be registered, licensed, titled, or documented in
95 | this state or by the United States Government shall be subject
96 | to tax at the rate provided in this paragraph. The department
97 | shall by rule adopt any nationally recognized publication for
98 | valuation of used motor vehicles as the reference price list for
99 | any used motor vehicle which is required to be licensed pursuant
100 | to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any

101 party to an occasional or isolated sale of such a vehicle
102 reports to the tax collector a sales price which is less than 80
103 percent of the average loan price for the specified model and
104 year of such vehicle as listed in the most recent reference
105 price list, the tax levied under this paragraph shall be
106 computed by the department on such average loan price unless the
107 parties to the sale have provided to the tax collector an
108 affidavit signed by each party, or other substantial proof,
109 stating the actual sales price. Any party to such sale who
110 reports a sales price less than the actual sales price is guilty
111 of a misdemeanor of the first degree, punishable as provided in
112 s. 775.082 or s. 775.083. The department shall collect or
113 attempt to collect from such party any delinquent sales taxes.
114 In addition, such party shall pay any tax due and any penalty
115 and interest assessed plus a penalty equal to twice the amount
116 of the additional tax owed. Notwithstanding any other provision
117 of law, the Department of Revenue may waive or compromise any
118 penalty imposed pursuant to this subparagraph.

119 2. This paragraph does not apply to the sale of a boat or
120 aircraft by or through a registered dealer under this chapter to
121 a purchaser who, at the time of taking delivery, is a
122 nonresident of this state, does not make his or her permanent
123 place of abode in this state, and is not engaged in carrying on
124 in this state any employment, trade, business, or profession in
125 which the boat or aircraft will be used in this state, or is a

126 corporation none of the officers or directors of which is a
127 resident of, or makes his or her permanent place of abode in,
128 this state, or is a noncorporate entity that has no individual
129 vested with authority to participate in the management,
130 direction, or control of the entity's affairs who is a resident
131 of, or makes his or her permanent abode in, this state. For
132 purposes of this exemption, either a registered dealer acting on
133 his or her own behalf as seller, a registered dealer acting as
134 broker on behalf of a seller, or a registered dealer acting as
135 broker on behalf of the purchaser may be deemed to be the
136 selling dealer. This exemption shall not be allowed unless:

137 a. The purchaser removes a qualifying boat, as described
138 in sub-subparagraph f., from the state within 90 days after the
139 date of purchase or extension, or the purchaser removes a
140 nonqualifying boat or an aircraft from this state within 10 days
141 after the date of purchase or, when the boat or aircraft is
142 repaired or altered, within 20 days after completion of the
143 repairs or alterations; or if the aircraft will be registered in
144 a foreign jurisdiction and:

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

148 (II) The purchaser removes the aircraft from the state to
149 a foreign jurisdiction within 10 days after the date the
150 aircraft is registered by the applicable foreign airworthiness

151 authority; and

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

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 155 For purposes of this sub-subparagraph, the term "foreign
 156 jurisdiction" means any jurisdiction outside of the United
 157 States or any of its territories;

158 b. The purchaser, within 90 days from the date of
 159 departure, provides the department with written proof that the
 160 purchaser licensed, registered, titled, or documented the boat
 161 or aircraft outside the state. If such written proof is
 162 unavailable, within 90 days the purchaser shall provide proof
 163 that the purchaser applied for such license, title,
 164 registration, or documentation. The purchaser shall forward to
 165 the department proof of title, license, registration, or
 166 documentation upon receipt;

167 c. The purchaser, within 30 days after removing the boat
 168 or aircraft from Florida, furnishes the department with proof of
 169 removal in the form of receipts for fuel, dockage, slippage,
 170 tie-down, or hangaring from outside of Florida. The information
 171 so provided must clearly and specifically identify the boat or
 172 aircraft;

173 d. The selling dealer, within 30 days after the date of
 174 sale, provides to the department a copy of the sales invoice,
 175 closing statement, bills of sale, and the original affidavit

176 signed by the purchaser attesting that he or she has read the
177 provisions of this section;

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

180 f. Unless the nonresident purchaser of a boat of 5 net
181 tons of admeasurement or larger intends to remove the boat from
182 this state within 10 days after the date of purchase or when the
183 boat is repaired or altered, within 20 days after completion of
184 the repairs or alterations, the nonresident purchaser applies to
185 the selling dealer for a decal which authorizes 90 days after
186 the date of purchase for removal of the boat. The nonresident
187 purchaser of a qualifying boat may apply to the selling dealer
188 within 60 days after the date of purchase for an extension decal
189 that authorizes the boat to remain in this state for an
190 additional 90 days, but not more than a total of 180 days,
191 before the nonresident purchaser is required to pay the tax
192 imposed by this chapter. The department is authorized to issue
193 decals in advance to dealers. The number of decals issued in
194 advance to a dealer shall be consistent with the volume of the
195 dealer's past sales of boats which qualify under this sub-
196 subparagraph. The selling dealer or his or her agent shall mark
197 and affix the decals to qualifying boats in the manner
198 prescribed by the department, before delivery of the boat.

199 (I) The department is hereby authorized to charge dealers
200 a fee sufficient to recover the costs of decals issued, except

201 the extension decal shall cost \$425.

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

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

207 (IV) The department is authorized to require dealers who
 208 purchase decals to file reports with the department and may
 209 prescribe all necessary records by rule. All such records are
 210 subject to inspection by the department.

211 (V) Any dealer or his or her agent who issues a decal
 212 falsely, fails to affix a decal, mismarks the expiration date of
 213 a decal, or fails to properly account for decals will be
 214 considered prima facie to have committed a fraudulent act to
 215 evade the tax and will be liable for payment of the tax plus a
 216 mandatory penalty of 200 percent of the tax, and shall be liable
 217 for fine and punishment as provided by law for a conviction of a
 218 misdemeanor of the first degree, as provided in s. 775.082 or s.
 219 775.083.

220 (VI) Any nonresident purchaser of a boat who removes a
 221 decal before permanently removing the boat from the state, or
 222 defaces, changes, modifies, or alters a decal in a manner
 223 affecting its expiration date before its expiration, or who
 224 causes or allows the same to be done by another, will be
 225 considered prima facie to have committed a fraudulent act to

226 | evade the tax and will be liable for payment of the tax plus a
227 | mandatory penalty of 200 percent of the tax, and shall be liable
228 | for fine and punishment as provided by law for a conviction of a
229 | misdemeanor of the first degree, as provided in s. 775.082 or s.
230 | 775.083.

231 | (VII) The department is authorized to adopt rules
232 | necessary to administer and enforce this subparagraph and to
233 | publish the necessary forms and instructions.

234 | (VIII) The department is hereby authorized to adopt
235 | emergency rules pursuant to s. 120.54(4) to administer and
236 | enforce the provisions of this subparagraph.

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238 | If the purchaser fails to remove the qualifying boat from this
239 | state within the maximum 180 days after purchase or a
240 | nonqualifying boat or an aircraft from this state within 10 days
241 | after purchase or, when the boat or aircraft is repaired or
242 | altered, within 20 days after completion of such repairs or
243 | alterations, or permits the boat or aircraft to return to this
244 | state within 6 months from the date of departure, except as
245 | provided in s. 212.08(7) (fff), or if the purchaser fails to
246 | furnish the department with any of the documentation required by
247 | this subparagraph within the prescribed time period, the
248 | purchaser shall be liable for use tax on the cost price of the
249 | boat or aircraft and, in addition thereto, payment of a penalty
250 | to the Department of Revenue equal to the tax payable. This

251 penalty shall be in lieu of the penalty imposed by s. 212.12(2).
252 The maximum 180-day period following the sale of a qualifying
253 boat tax-exempt to a nonresident may not be tolled for any
254 reason.

255 (b) At the rate of 6 percent of the cost price of each
256 item or article of tangible personal property when the same is
257 not sold but is used, consumed, distributed, or stored for use
258 or consumption in this state; however, for tangible property
259 originally purchased exempt from tax for use exclusively for
260 lease and which is converted to the owner's own use, tax may be
261 paid on the fair market value of the property at the time of
262 conversion. If the fair market value of the property cannot be
263 determined, use tax at the time of conversion shall be based on
264 the owner's acquisition cost. Under no circumstances may the
265 aggregate amount of sales tax from leasing the property and use
266 tax due at the time of conversion be less than the total sales
267 tax that would have been due on the original acquisition cost
268 paid by the owner.

269 (c) At the rate of 6 percent of the gross proceeds derived
270 from the lease or rental of tangible personal property, as
271 defined herein; however, the following special provisions apply
272 to the lease or rental of motor vehicles:

273 1. When a motor vehicle is leased or rented for a period
274 of less than 12 months:

275 a. If the motor vehicle is rented in Florida, the entire

276 amount of such rental is taxable, even if the vehicle is dropped
 277 off in another state.

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

280 2. Except as provided in subparagraph 3., for the lease or
 281 rental of a motor vehicle for a period of not less than 12
 282 months, sales tax is due on the lease or rental payments if the
 283 vehicle is registered in this state; provided, however, that no
 284 tax shall be due if the taxpayer documents use of the motor
 285 vehicle outside this state and tax is being paid on the lease or
 286 rental payments in another state.

287 3. The tax imposed by this chapter does not apply to the
 288 lease or rental of a commercial motor vehicle as defined in s.
 289 316.003(13)(a) to one lessee or rentee for a period of not less
 290 than 12 months when tax was paid on the purchase price of such
 291 vehicle by the lessor. To the extent tax was paid with respect
 292 to the purchase of such vehicle in another state, territory of
 293 the United States, or the District of Columbia, the Florida tax
 294 payable shall be reduced in accordance with the provisions of s.
 295 212.06(7). This subparagraph shall only be available when the
 296 lease or rental of such property is an established business or
 297 part of an established business or the same is incidental or
 298 germane to such business.

299 (d) At the rate of 6 percent of the lease or rental price
 300 paid by a lessee or rentee, or contracted or agreed to be paid

301 by a lessee or rentee, to the owner of the tangible personal
 302 property.

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

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

307 (I) "Prepaid calling arrangement" has the same meaning as
 308 provided in s. 202.11.

309 (II) If the sale or recharge of the prepaid calling
 310 arrangement does not take place at the dealer's place of
 311 business, it shall be deemed to have taken place at the
 312 customer's shipping address or, if no item is shipped, at the
 313 customer's address or the location associated with the
 314 customer's mobile telephone number.

315 (III) The sale or recharge of a prepaid calling
 316 arrangement shall be treated as a sale of tangible personal
 317 property for purposes of this chapter, regardless of whether a
 318 tangible item evidencing such arrangement is furnished to the
 319 purchaser, and such sale within this state subjects the selling
 320 dealer to the jurisdiction of this state for purposes of this
 321 subsection.

322 (IV) No additional tax under this chapter or chapter 202
 323 is due or payable if a purchaser of a prepaid calling
 324 arrangement who has paid tax under this chapter on the sale or
 325 recharge of such arrangement applies one or more units of the

326 prepaid calling arrangement to obtain communications services as
 327 described in s. 202.11(9)(b)3., other services that are not
 328 communications services, or products.

329 b. The installation of telecommunication and telegraphic
 330 equipment.

331 c. Electrical power or energy, except that the tax rate
 332 for charges for electrical power or energy is 4.35 percent.
 333 Charges for electrical power and energy do not include taxes
 334 imposed under ss. 166.231 and 203.01(1)(a)3.

335 2. Section 212.17(3), regarding credit for tax paid on
 336 charges subsequently found to be worthless, is equally
 337 applicable to any tax paid under this section on charges for
 338 prepaid calling arrangements, telecommunication or telegraph
 339 services, or electric power subsequently found to be
 340 uncollectible. As used in this paragraph, the term "charges"
 341 does not include any excise or similar tax levied by the Federal
 342 Government, a political subdivision of this state, or a
 343 municipality upon the purchase, sale, or recharge of prepaid
 344 calling arrangements or upon the purchase or sale of
 345 telecommunication, television system program, or telegraph
 346 service or electric power, which tax is collected by the seller
 347 from the purchaser.

348 (f) At the rate of 6 percent on the sale, rental, use,
 349 consumption, or storage for use in this state of machines and
 350 equipment, and parts and accessories therefor, used in

351 manufacturing, processing, compounding, producing, mining, or
352 quarrying personal property for sale or to be used in furnishing
353 communications, transportation, or public utility services.

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

356 2. Notwithstanding other provisions of this chapter,
357 inserts of printed materials which are distributed with a
358 newspaper or magazine are a component part of the newspaper or
359 magazine, and neither the sale nor use of such inserts is
360 subject to tax when:

361 a. Printed by a newspaper or magazine publisher or
362 commercial printer and distributed as a component part of a
363 newspaper or magazine, which means that the items after being
364 printed are delivered directly to a newspaper or magazine
365 publisher by the printer for inclusion in editions of the
366 distributed newspaper or magazine;

367 b. Such publications are labeled as part of the designated
368 newspaper or magazine publication into which they are to be
369 inserted; and

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

373 (h)1. A tax is imposed at the rate of 4 percent on the
374 charges for the use of coin-operated amusement machines. The tax
375 shall be calculated by dividing the gross receipts from such

376 | charges for the applicable reporting period by a divisor,
377 | determined as provided in this subparagraph, to compute gross
378 | taxable sales, and then subtracting gross taxable sales from
379 | gross receipts to arrive at the amount of tax due. For counties
380 | that do not impose a discretionary sales surtax, the divisor is
381 | equal to 1.04; for counties that impose a 0.5 percent
382 | discretionary sales surtax, the divisor is equal to 1.045; for
383 | counties that impose a 1 percent discretionary sales surtax, the
384 | divisor is equal to 1.050; and for counties that impose a 2
385 | percent sales surtax, the divisor is equal to 1.060. If a county
386 | imposes a discretionary sales surtax that is not listed in this
387 | subparagraph, the department shall make the applicable divisor
388 | available in an electronic format or otherwise. Additional
389 | divisors shall bear the same mathematical relationship to the
390 | next higher and next lower divisors as the new surtax rate bears
391 | to the next higher and next lower surtax rates for which
392 | divisors have been established. When a machine is activated by a
393 | slug, token, coupon, or any similar device which has been
394 | purchased, the tax is on the price paid by the user of the
395 | device for such device.

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

400 | a. If the owner of the machine is also the operator of it,

401 he or she shall be liable for payment of the tax without any
402 deduction for rent or a license fee paid to a location owner for
403 the use of any real property on which the machine is located.

404 b. If the owner or lessee of the machine is also its
405 operator, he or she shall be liable for payment of the tax on
406 the purchase or lease of the machine, as well as the tax on
407 sales generated through the machine.

408 c. If the proprietor of the business where the machine is
409 located does not own the machine, he or she shall be deemed to
410 be the lessee and operator of the machine and is responsible for
411 the payment of the tax on sales, unless such responsibility is
412 otherwise provided for in a written agreement between him or her
413 and the machine owner.

414 3.a. An operator of a coin-operated amusement machine may
415 not operate or cause to be operated in this state any such
416 machine until the operator has registered with the department
417 and has conspicuously displayed an identifying certificate
418 issued by the department. The identifying certificate shall be
419 issued by the department upon application from the operator. The
420 identifying certificate shall include a unique number, and the
421 certificate shall be permanently marked with the operator's
422 name, the operator's sales tax number, and the maximum number of
423 machines to be operated under the certificate. An identifying
424 certificate shall not be transferred from one operator to
425 another. The identifying certificate must be conspicuously

426 displayed on the premises where the coin-operated amusement
427 machines are being operated.

428 b. The operator of the machine must obtain an identifying
429 certificate before the machine is first operated in the state
430 and by July 1 of each year thereafter. The annual fee for each
431 certificate shall be based on the number of machines identified
432 on the application times \$30 and is due and payable upon
433 application for the identifying device. The application shall
434 contain the operator's name, sales tax number, business address
435 where the machines are being operated, and the number of
436 machines in operation at that place of business by the operator.
437 No operator may operate more machines than are listed on the
438 certificate. A new certificate is required if more machines are
439 being operated at that location than are listed on the
440 certificate. The fee for the new certificate shall be based on
441 the number of additional machines identified on the application
442 form times \$30.

443 c. A penalty of \$250 per machine is imposed on the
444 operator for failing to properly obtain and display the required
445 identifying certificate. A penalty of \$250 is imposed on the
446 lessee of any machine placed in a place of business without a
447 proper current identifying certificate. Such penalties shall
448 apply in addition to all other applicable taxes, interest, and
449 penalties.

450 d. Operators of coin-operated amusement machines must

451 obtain a separate sales and use tax certificate of registration
452 for each county in which such machines are located. One sales
453 and use tax certificate of registration is sufficient for all of
454 the operator's machines within a single county.

455 4. The provisions of this paragraph do not apply to coin-
456 operated amusement machines owned and operated by churches or
457 synagogues.

458 5. In addition to any other penalties imposed by this
459 chapter, a person who knowingly and willfully violates any
460 provision of this paragraph commits a misdemeanor of the second
461 degree, punishable as provided in s. 775.082 or s. 775.083.

462 6. The department may adopt rules necessary to administer
463 the provisions of this paragraph.

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

465 a. Detective, burglar protection, and other protection
466 services (NAICS National Numbers 561611, 561612, 561613, and
467 561621). Fingerprint services required under s. 790.06 or s.
468 790.062 are not subject to the tax. Any law enforcement officer,
469 as defined in s. 943.10, who is performing approved duties as
470 determined by his or her local law enforcement agency in his or
471 her capacity as a law enforcement officer, and who is subject to
472 the direct and immediate command of his or her law enforcement
473 agency, and in the law enforcement officer's uniform as
474 authorized by his or her law enforcement agency, is performing
475 law enforcement and public safety services and is not performing

476 | detective, burglar protection, or other protective services, if
477 | the law enforcement officer is performing his or her approved
478 | duties in a geographical area in which the law enforcement
479 | officer has arrest jurisdiction. Such law enforcement and public
480 | safety services are not subject to tax irrespective of whether
481 | the duty is characterized as "extra duty," "off-duty," or
482 | "secondary employment," and irrespective of whether the officer
483 | is paid directly or through the officer's agency by an outside
484 | source. The term "law enforcement officer" includes full-time or
485 | part-time law enforcement officers, and any auxiliary law
486 | enforcement officer, when such auxiliary law enforcement officer
487 | is working under the direct supervision of a full-time or part-
488 | time law enforcement officer.

489 | b. Nonresidential cleaning, excluding cleaning of the
490 | interiors of transportation equipment, and nonresidential
491 | building pest control services (NAICS National Numbers 561710
492 | and 561720).

493 | 2. As used in this paragraph, "NAICS" means those
494 | classifications contained in the North American Industry
495 | Classification System, as published in 2007 by the Office of
496 | Management and Budget, Executive Office of the President.

497 | 3. Charges for detective, burglar protection, and other
498 | protection security services performed in this state but used
499 | outside this state are exempt from taxation. Charges for
500 | detective, burglar protection, and other protection security

501 services performed outside this state and used in this state are
502 subject to tax.

503 4. If a transaction involves both the sale or use of a
504 service taxable under this paragraph and the sale or use of a
505 service or any other item not taxable under this chapter, the
506 consideration paid must be separately identified and stated with
507 respect to the taxable and exempt portions of the transaction or
508 the entire transaction shall be presumed taxable. The burden
509 shall be on the seller of the service or the purchaser of the
510 service, whichever applicable, to overcome this presumption by
511 providing documentary evidence as to which portion of the
512 transaction is exempt from tax. The department is authorized to
513 adjust the amount of consideration identified as the taxable and
514 exempt portions of the transaction; however, a determination
515 that the taxable and exempt portions are inaccurately stated and
516 that the adjustment is applicable must be supported by
517 substantial competent evidence.

518 5. Each seller of services subject to sales tax pursuant
519 to this paragraph shall maintain a monthly log showing each
520 transaction for which sales tax was not collected because the
521 services meet the requirements of subparagraph 3. for out-of-
522 state use. The log must identify the purchaser's name, location
523 and mailing address, and federal employer identification number,
524 if a business, or the social security number, if an individual,
525 the service sold, the price of the service, the date of sale,

526 the reason for the exemption, and the sales invoice number. The
527 monthly log shall be maintained pursuant to the same
528 requirements and subject to the same penalties imposed for the
529 keeping of similar records pursuant to this chapter.

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

534 a. Is not legal tender;

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

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

539 2. Such tax shall be at a rate of 6 percent of the price
540 at which the coin or currency is sold, exchanged, or traded,
541 except that, with respect to a coin or currency which is legal
542 tender of the United States and which is sold, exchanged, or
543 traded, such tax shall not be levied.

544 3. There are exempt from this tax exchanges of coins or
545 currency which are in general circulation in, and legal tender
546 of, one nation for coins or currency which are in general
547 circulation in, and legal tender of, another nation when
548 exchanged solely for use as legal tender and at an exchange rate
549 based on the relative value of each as a medium of exchange.

550 4. With respect to any transaction that involves the sale

551 of coins or currency taxable under this paragraph in which the
552 taxable amount represented by the sale of such coins or currency
553 exceeds \$500, the entire amount represented by the sale of such
554 coins or currency is exempt from the tax imposed under this
555 paragraph. The dealer must maintain proper documentation, as
556 prescribed by rule of the department, to identify that portion
557 of a transaction which involves the sale of coins or currency
558 and is exempt under this subparagraph.

559 (k) At the rate of 6 percent of the sales price of each
560 gallon of diesel fuel not taxed under chapter 206 purchased for
561 use in a vessel, except dyed diesel fuel that is exempt pursuant
562 to s. 212.08(4)(a)4.

563 (l) Florists located in this state are liable for sales
564 tax on sales to retail customers regardless of where or by whom
565 the items sold are to be delivered. Florists located in this
566 state are not liable for sales tax on payments received from
567 other florists for items delivered to customers in this state.

568 (m) Operators of game concessions or other concessionaires
569 who customarily award tangible personal property as prizes may,
570 in lieu of paying tax on the cost price of such property, pay
571 tax on 25 percent of the gross receipts from such concession
572 activity.

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

576 (3) The tax so levied is in addition to all other taxes,
 577 whether levied in the form of excise, license, or privilege
 578 taxes, and in addition to all other fees and taxes levied.

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

581 (5) Notwithstanding any other provision of this chapter,
 582 the maximum amount of tax imposed under this chapter and
 583 collected on each sale or use of a boat in this state may not
 584 exceed \$18,000 and on each repair of a boat in this state may
 585 not exceed \$60,000.

586 Section 4. Section 212.0596, Florida Statutes, is amended
 587 to read:

588 212.0596 Taxation of remote ~~mail-order~~ sales.-

589 (1) For purposes of this chapter, a "remote ~~mail-order~~
 590 sale" means ~~is~~ a retail sale of tangible personal property,
 591 ordered by mail, telephone, the Internet, or other means of
 592 communication, ~~from a dealer who receives the order outside of~~
 593 this state in another state of the United States, or in a
 594 ~~commonwealth, territory, or other area under the jurisdiction of~~
 595 ~~the United States,~~ and transports the property or causes the
 596 property to be transported, ~~whether or not by mail,~~ from any
 597 jurisdiction ~~of the United States,~~ including this state, to a
 598 person in this state, including the person who ordered the
 599 property.

600 (2) Every dealer as defined in s. 212.06(2)(c) who makes a

601 remote ~~mail-order~~ sale is subject to the power of this state to
602 levy and collect the tax imposed by this chapter when any of the
603 following applies:

604 (a) The dealer is a corporation doing business under the
605 laws of this state or is a person domiciled in, a resident of,
606 or a citizen of ~~this state.~~

607 (b) The dealer maintains retail establishments or offices
608 in this state, regardless of whether the remote ~~mail-order~~ sales
609 thus subject to taxation by this state result from or are
610 related in any other way to the activities of such
611 establishments or offices.

612 (c) The dealer has agents in this state who solicit
613 business or transact business on behalf of the dealer,
614 regardless of whether the remote ~~mail-order~~ sales thus subject
615 to taxation by this state result from or are related in any
616 other way to such solicitation or transaction of business. For
617 purposes of this paragraph, ~~except that~~ a printer who mails or
618 delivers for an out-of-state print purchaser material ~~the~~
619 ~~printer~~ printed by the printer for the purchaser is ~~it shall~~ not
620 ~~be~~ deemed to be the print purchaser's agent. ~~for purposes of~~
621 ~~this paragraph.~~

622 (d) The property was delivered in this state in
623 fulfillment of a sales contract that was entered into in this
624 state, in accordance with applicable conflict of laws rules,
625 when a person in this state accepted an offer by ordering the

626 | property.~~†~~

627 | (e) The dealer, by purposefully or systematically
628 | exploiting the market provided by this state by any media-
629 | assisted, media-facilitated, or media-solicited means,
630 | including, but not limited to, direct mail advertising,
631 | unsolicited distribution of catalogs, computer-assisted
632 | shopping, television, radio, or other electronic media, or
633 | magazine or newspaper advertisements or other media, creates
634 | nexus with this state.~~†~~

635 | (f) Through compact or reciprocity with another
636 | jurisdiction of the United States, that jurisdiction uses its
637 | taxing power and its jurisdiction over the retailer in support
638 | of this state's taxing power.~~†~~

639 | (g) The dealer consents, expressly or by implication, to
640 | ~~the imposition of~~ the tax imposed by this chapter.~~†~~

641 | (h) The dealer is subject to service of process under s.
642 | 48.181.~~†~~

643 | (i) The dealer's remote ~~mail order~~ sales are subject to
644 | the power of this state to tax sales or to require the dealer to
645 | collect use taxes under a statute or statutes of the United
646 | States.~~†~~

647 | (j) The dealer owns real property or tangible personal
648 | property that is physically in this state. For purposes of this
649 | paragraph, except that a dealer whose only property, (including
650 | property owned by an affiliate,~~)~~ in this state is located at the

651 premises of a printer with which the vendor has contracted for
 652 printing, and is either a final printed product, ~~or~~ property
 653 that ~~which~~ becomes a part of the final printed product, or
 654 property from which the printed product is produced, is not
 655 deemed to own such property. ~~for purposes of this paragraph;~~

656 (k) The dealer, while not having nexus with this state on
 657 any of the bases described in paragraphs (a)-(j) or paragraph
 658 (l), is a corporation that is a member of an affiliated group of
 659 corporations, as defined in s. 1504(a) of the Internal Revenue
 660 Code, whose members are includable under s. 1504(b) of the
 661 Internal Revenue Code and whose members are eligible to file a
 662 consolidated tax return for federal corporate income tax
 663 purposes and any parent or subsidiary corporation in the
 664 affiliated group has nexus with this state on one or more of the
 665 bases described in paragraphs (a)-(j) or paragraph (l). ~~;~~ ~~or~~

666 (l) The dealer or the dealer's activities, have sufficient
 667 ~~connection with or relationship to this state or its residents~~
 668 ~~of some type~~ other than those described in paragraphs (a)-(k),
 669 result in making a substantial number of remote sales under
 670 subsection (3) to create nexus empowering this state to tax its
 671 ~~mail order sales or to require the dealer to collect sales tax~~
 672 ~~or accrue use tax.~~

673 (3) (a) Every person ~~dealer engaged in the business of~~
 674 making a substantial number of remote mail order sales is a
 675 dealer for purposes of this chapter ~~subject to the requirements~~

676 ~~of this chapter for cooperation of dealers in collection of~~
677 ~~taxes and in administration of this chapter, except that no fee~~
678 ~~shall be imposed upon such dealer for carrying out any required~~
679 ~~activity.~~

680 (b) As used in this section, the term "making a
681 substantial number of remote sales" means:

682 1. Conducting 200 or more retail sales of tangible
683 personal property in the previous calendar year to be delivered
684 to a location within this state; or

685 2. Conducting any number of retail sales of tangible
686 personal property in an amount exceeding \$100,000 in the
687 previous calendar year to be delivered to a location within this
688 state.

689
690 For purposes of this paragraph, tangible personal property
691 delivered to a location within this state is presumed to be
692 used, consumed, distributed, or stored to be used, consumed, or
693 distributed in this state.

694 (4) The department shall, with the consent of another
695 jurisdiction of the United States whose cooperation is needed,
696 enforce this chapter in that jurisdiction, either directly or,
697 at the option of that jurisdiction, through its officers or
698 employees.

699 (5) The tax required under this section to be collected
700 and any amount unreturned to a purchaser that is not tax but was

701 collected from the purchaser under the representation that it
 702 was tax constitute funds of the State of Florida from the moment
 703 of collection.

704 ~~(6) Notwithstanding other provisions of law, a dealer who~~
 705 ~~makes a mail order sale in this state is exempt from collecting~~
 706 ~~and remitting any local option surtax on the sale, unless the~~
 707 ~~dealer is located in a county that imposes a surtax within the~~
 708 ~~meaning of s. 212.054(3) (a), the order is placed through the~~
 709 ~~dealer's location in such county, and the property purchased is~~
 710 ~~delivered into such county or into another county in this state~~
 711 ~~that levies the surtax, in which case the provisions of s.~~
 712 ~~212.054(3) (a) are applicable.~~

713 (6)(7) The department may establish by rule procedures for
 714 collecting the use tax from unregistered persons who but for
 715 their remote ~~mail order~~ purchases would not be required to remit
 716 sales or use tax directly to the department. The procedures may
 717 provide for waiver of registration, provisions for irregular
 718 remittance of tax, elimination of the collection allowance, and
 719 nonapplication of local option surtaxes.

720 Section 5. Effective October 1, 2021, section 212.05965,
 721 Florida Statutes, is created to read:

722 212.05965 Taxation of marketplace sales.-

723 (1) As used in this section, the term:

724 (a) "Marketplace" means any physical place or electronic
 725 medium through which tangible personal property is offered for

726 sale.

727 (b) "Marketplace provider" means a person who facilitates
728 a retail sale by a marketplace seller by listing or advertising
729 for sale on behalf of the marketplace seller tangible personal
730 property in a marketplace, and who directly, or indirectly
731 through agreements or arrangements with third parties, collects
732 payment from the customer and transmits the payment to the
733 marketplace seller, regardless of whether the marketplace
734 provider receives compensation or other consideration in
735 exchange for his or her services.

736 1. The term does not include a person who solely provides
737 travel agency services. As used in this subparagraph, the term
738 "travel agency services" means arranging, booking, or otherwise
739 facilitating for a commission, fee, or other consideration
740 vacation or travel packages, rental cars, or other travel
741 reservations; tickets for domestic or foreign travel by air,
742 rail, ship, bus, or other mode of transportation; or hotel or
743 other lodging accommodations.

744 2. The term does not include a person who is a delivery
745 network company unless the delivery network company is a
746 registered dealer for purposes of this chapter and the delivery
747 network company notifies all local merchants that sell through
748 the delivery network company's website or mobile application
749 that the delivery network company is subject to the requirements
750 of a marketplace provider under this section. As used in this

751 subparagraph, the term:

752 a. "Delivery network company" means a person who maintains
753 a website or mobile application to facilitate delivery services,
754 the sale of local products, or both.

755 b. "Delivery network courier" means an individual who
756 provides delivery services through a delivery network company
757 website or mobile application using a personal means of
758 transportation, such as a motor vehicle as defined in s. 320.01,
759 bicycle, scooter, or other similar means of transportation;
760 using public transportation; or by walking.

761 c. "Delivery services" means the pickup by a delivery
762 network courier of one or more local products from a local
763 merchant and delivery to a customer, and may include the
764 selection, collection, and purchase of the local product in
765 connection with the delivery. The term does not include a
766 delivery requiring more than 75 miles of travel from the local
767 merchant to the customer.

768 d. "Local merchant" means a kitchen, restaurant, or third-
769 party merchant, including a grocery store, retail store,
770 convenience store, or any business which is not under common
771 ownership or control of the delivery network company.

772 e. "Local product" means any tangible personal property,
773 including food, but excluding freight, mail, or a package to
774 which postage has been affixed.

775 (c) "Marketplace seller" means a person who has an

776 agreement with a marketplace provider and who makes retail sales
777 of tangible personal property through a marketplace owned,
778 operated, or controlled by the marketplace provider.

779 (2) Every marketplace provider who has a physical presence
780 in this state or who makes a substantial number of remote sales
781 or facilitates through a marketplace a substantial number of
782 sales as defined in s. 212.0596(3)(b) is subject to the
783 requirements imposed by this chapter on dealers for registration
784 and for the collection and remittance of taxes.

785 (3) A marketplace provider shall certify to his or her
786 marketplace sellers that he or she will collect and remit the
787 tax imposed under this chapter on taxable retail sales made
788 through the marketplace. Such certification may be included in
789 the agreement between the marketplace provider and marketplace
790 seller.

791 (4)(a) A marketplace seller may not collect and remit the
792 tax under this chapter on a taxable retail sale when the sale is
793 made through the marketplace and the marketplace provider
794 certifies, as required under subsection (3), that he or she will
795 collect and remit such tax. A marketplace seller shall exclude
796 such sales made through the marketplace from the marketplace
797 seller's tax return under s. 212.11.

798 (b)1. A marketplace seller who has a physical presence in
799 this state shall register and shall collect and remit the tax
800 imposed under this chapter on all taxable retail sales made

801 outside of the marketplace.

802 2. A marketplace seller who makes a substantial number of
803 remote sales as defined in s. 212.0596(3)(b) must register and
804 collect and remit the tax imposed under this chapter on all
805 taxable retail sales made outside of the marketplace. Sales made
806 through the marketplace are not considered for the purposes of
807 determining whether the marketplace seller has made a
808 substantial number of remote sales.

809 (5)(a) A marketplace provider shall allow the department
810 to examine and audit its books and records pursuant to s.
811 212.13. For retail sales facilitated through a marketplace, the
812 department may not examine or audit the books or records of
813 marketplace sellers and the department may not assess
814 marketplace sellers except to the extent the marketplace
815 provider seeks relief under paragraph (b). The department may
816 examine, audit, and assess a marketplace seller for retail sales
817 made outside of the marketplace under paragraph (4)(b).

818 (b) The marketplace provider is relieved of liability for
819 the tax on the retail sale and the marketplace seller or
820 customer is liable for the tax imposed under this chapter if the
821 marketplace provider demonstrates to the department's
822 satisfaction that the marketplace provider made a reasonable
823 effort to obtain accurate information related to the retail
824 sales facilitated through the marketplace from the marketplace
825 seller, but that the failure to collect and pay the correct

826 amount of tax imposed under this chapter was due to the
827 marketplace seller providing incorrect or incomplete information
828 to the marketplace provider. This paragraph does not apply to a
829 retail sale for which the marketplace provider is the seller if
830 the marketplace provider and marketplace seller are related
831 parties or if transactions between the marketplace seller and
832 marketplace buyer are not conducted at arm's length.

833 (6) For purposes of registration pursuant to s. 212.18, a
834 marketplace is deemed a separate place of business.

835 (7) A marketplace provider and marketplace seller may
836 agree by contract or otherwise that if a marketplace provider
837 pays the tax imposed under this chapter on a retail sale
838 facilitated through a marketplace for a marketplace seller as a
839 result of an audit or otherwise, the marketplace provider has
840 the right to recover such tax and any associated interest and
841 penalties from the marketplace seller.

842 (8) Consistent with s. 213.21, the department may settle
843 and compromise any tax, interest, or penalty assessed on retail
844 sales conducted through a marketplace.

845 (9) The limitations in ss. 213.30(3) and 213.756(2) apply
846 to this section.

847 (10) This section does not authorize the state to collect
848 sales tax from both the marketplace provider and the marketplace
849 seller on the same retail sale.

850 Section 6. Paragraph (c) of subsection (2) and paragraph

851 (a) of subsection (5) of section 212.06, Florida Statutes, are
852 amended to read:

853 212.06 Sales, storage, use tax; collectible from dealers;
854 "dealer" defined; dealers to collect from purchasers;
855 legislative intent as to scope of tax.—

856 (2)

857 (c) The term "dealer" is further defined to mean every
858 person, as used in this chapter, who sells at retail or who
859 offers for sale at retail, or who has in his or her possession
860 for sale at retail; or for use, consumption, or distribution; or
861 for storage to be used or consumed in this state, tangible
862 personal property as defined herein, including a retailer who
863 transacts a remote ~~mail-order~~ sale.

864 (5)(a)1. Except as provided in subparagraph 2., it is not
865 the intention of this chapter to levy a tax upon tangible
866 personal property imported, produced, or manufactured in this
867 state for export, provided that tangible personal property may
868 not be considered as being imported, produced, or manufactured
869 for export unless the importer, producer, or manufacturer
870 delivers the same to a licensed exporter for exporting or to a
871 common carrier for shipment outside the state or mails the same
872 by United States mail to a destination outside the state; or, in
873 the case of aircraft being exported under their own power to a
874 destination outside the continental limits of the United States,
875 by submission to the department of a duly signed and validated

876 United States customs declaration, showing the departure of the
877 aircraft from the continental United States; and further with
878 respect to aircraft, the canceled United States registry of said
879 aircraft; or in the case of parts and equipment installed on
880 aircraft of foreign registry, by submission to the department of
881 documentation, the extent of which shall be provided by rule,
882 showing the departure of the aircraft from the continental
883 United States; nor is it the intention of this chapter to levy a
884 tax on any sale which the state is prohibited from taxing under
885 the Constitution or laws of the United States. Every retail sale
886 made to a person physically present at the time of sale shall be
887 presumed to have been delivered in this state.

888 2.a. Notwithstanding subparagraph 1., a tax is levied on
889 each sale of tangible personal property to be transported to a
890 cooperating state as defined in sub-subparagraph c., at the rate
891 specified in sub-subparagraph d. However, a Florida dealer will
892 be relieved from the requirements of collecting taxes pursuant
893 to this subparagraph if the Florida dealer obtains from the
894 purchaser an affidavit setting forth the purchaser's name,
895 address, state taxpayer identification number, and a statement
896 that the purchaser is aware of his or her state's use tax laws,
897 is a registered dealer in Florida or another state, or is
898 purchasing the tangible personal property for resale or is
899 otherwise not required to pay the tax on the transaction. The
900 department may, by rule, provide a form to be used for the

901 purposes set forth herein.

902 b. For purposes of this subparagraph, "a cooperating
903 state" is one determined by the executive director of the
904 department to cooperate satisfactorily with this state in
905 collecting taxes on remote ~~mail-order~~ sales. No state shall be
906 so determined unless it meets all the following minimum
907 requirements:

908 (I) It levies and collects taxes on remote ~~mail-order~~
909 sales of property transported from that state to persons in this
910 state, as described in s. 212.0596, upon request of the
911 department.

912 (II) The tax so collected shall be at the rate specified
913 in s. 212.05, not including any local option or tourist or
914 convention development taxes collected pursuant to s. 125.0104
915 or this chapter.

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

919 (IV) Such state authorizes the department to audit dealers
920 within its jurisdiction who make remote ~~mail-order~~ sales that
921 are the subject of s. 212.0596, or makes arrangements deemed
922 adequate by the department for auditing them with its own
923 personnel.

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

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

929 c. For purposes of this subparagraph, "sales of tangible
930 personal property to be transported to a cooperating state"
931 means remote ~~mail-order~~ sales to a person who is in the
932 cooperating state at the time the order is executed, from a
933 dealer who receives that order in this state.

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

939 e. The tax levied by sub-subparagraph a., when collected,
940 shall be held in the State Treasury in trust for the benefit of
941 the cooperating state and shall be paid to it at a time agreed
942 upon between the department, acting for this state, and the
943 cooperating state or the department or agency designated by it
944 to act for it; however, such payment shall in no event be made
945 later than 30 days from the last day of the calendar quarter
946 after the tax was collected. Funds held in trust for the benefit
947 of a cooperating state shall not be subject to the service
948 charges imposed by s. 215.20.

949 f. The department is authorized to perform such acts and
950 to provide such cooperation to a cooperating state with

951 reference to the tax levied by sub-subparagraph a. as is
952 required of the cooperating state by sub-subparagraph b.

953 g. In furtherance of this act, dealers selling tangible
954 personal property for delivery in another state shall make
955 available to the department, upon request of the department,
956 records of all tangible personal property so sold. Such records
957 shall include a description of the property, the name and
958 address of the purchaser, the name and address of the person to
959 whom the property was sent, the purchase price of the property,
960 information regarding whether sales tax was paid in this state
961 on the purchase price, and such other information as the
962 department may by rule prescribe.

963 Section 7. Paragraph (a) of subsection (1) and paragraph
964 (a) of subsection (5) of section 212.12, Florida Statutes, are
965 amended to read:

966 212.12 Dealer's credit for collecting tax; penalties for
967 noncompliance; powers of Department of Revenue in dealing with
968 delinquents; brackets applicable to taxable transactions;
969 records required.—

970 (1) (a) ~~1~~. Notwithstanding any other law and for the purpose
971 of compensating persons granting licenses for and the lessors of
972 real and personal property taxed hereunder, for the purpose of
973 compensating dealers in tangible personal property, for the
974 purpose of compensating dealers providing communication services
975 and taxable services, for the purpose of compensating owners of

976 places where admissions are collected, and for the purpose of
977 compensating remitters of any taxes or fees reported on the same
978 documents utilized for the sales and use tax, as compensation
979 for the keeping of prescribed records, filing timely tax
980 returns, and the proper accounting and remitting of taxes by
981 them, such seller, person, lessor, dealer, owner, and remitter
982 ~~(except dealers who make mail order sales)~~ who files the return
983 required pursuant to s. 212.11 only by electronic means and who
984 pays the amount due on such return only by electronic means
985 shall be allowed 2.5 percent of the amount of the tax due,
986 accounted for, and remitted to the department in the form of a
987 deduction. However, if the amount of the tax due and remitted to
988 the department by electronic means for the reporting period
989 exceeds \$1,200, an allowance is not allowed for all amounts in
990 excess of \$1,200. For purposes of this paragraph ~~subparagraph~~,
991 the term "electronic means" has the same meaning as provided in
992 s. 213.755(2)(c).

993 ~~2. The executive director of the department is authorized~~
994 ~~to negotiate a collection allowance, pursuant to rules~~
995 ~~promulgated by the department, with a dealer who makes mail~~
996 ~~order sales. The rules of the department shall provide~~
997 ~~guidelines for establishing the collection allowance based upon~~
998 ~~the dealer's estimated costs of collecting the tax, the volume~~
999 ~~and value of the dealer's mail order sales to purchasers in this~~
1000 ~~state, and the administrative and legal costs and likelihood of~~

1001 ~~achieving collection of the tax absent the cooperation of the~~
 1002 ~~dealer. However, in no event shall the collection allowance~~
 1003 ~~negotiated by the executive director exceed 10 percent of the~~
 1004 ~~tax remitted for a reporting period.~~

1005 (5) (a) The department is authorized to audit or inspect
 1006 the records and accounts of dealers defined herein, including
 1007 audits or inspections of dealers who make remote ~~mail order~~
 1008 ~~sales to the extent permitted by another state,~~ and to correct
 1009 by credit any overpayment of tax, and, in the event of a
 1010 deficiency, an assessment shall be made and collected. No
 1011 administrative finding of fact is necessary prior to the
 1012 assessment of any tax deficiency.

1013 Section 8. Paragraph (f) of subsection (3) of section
 1014 212.18, Florida Statutes, is amended to read:

1015 212.18 Administration of law; registration of dealers;
 1016 rules.—

1017 (3)

1018 (f) As used in this paragraph, the term "exhibitor" means
 1019 a person who enters into an agreement authorizing the display of
 1020 tangible personal property or services at a convention or a
 1021 trade show. The following provisions apply to the registration
 1022 of exhibitors as dealers under this chapter:

1023 1. An exhibitor whose agreement prohibits the sale of
 1024 tangible personal property or services subject to the tax
 1025 imposed in this chapter is not required to register as a dealer.

1026 2. An exhibitor whose agreement provides for the sale at
 1027 wholesale only of tangible personal property or services subject
 1028 to the tax imposed by this chapter must obtain a resale
 1029 certificate from the purchasing dealer but is not required to
 1030 register as a dealer.

1031 3. An exhibitor whose agreement authorizes the retail sale
 1032 of tangible personal property or services subject to the tax
 1033 imposed by this chapter must register as a dealer and collect
 1034 the tax on such sales.

1035 4. An exhibitor who makes a remote ~~mail order~~ sale
 1036 pursuant to s. 212.0596 must register as a dealer.

1037
 1038 A person who conducts a convention or a trade show must make his
 1039 or her exhibitor's agreements available to the department for
 1040 inspection and copying.

1041 Section 9. For the purpose of incorporating the amendment
 1042 made by this act to section 212.0596, Florida Statutes, in a
 1043 reference thereto, subsection (4) of section 212.20, Florida
 1044 Statutes, is reenacted to read:

1045 212.20 Funds collected, disposition; additional powers of
 1046 department; operational expense; refund of taxes adjudicated
 1047 unconstitutionally collected.—

1048 (4) When there has been a final adjudication that any tax
 1049 pursuant to s. 212.0596 was levied, collected, or both, contrary
 1050 to the Constitution of the United States or the State

1051 Constitution, the department shall, in accordance with rules,
 1052 determine, based upon claims for refund and other evidence and
 1053 information, who paid such tax or taxes, and refund to each such
 1054 person the amount of tax paid. For purposes of this subsection,
 1055 a "final adjudication" is a decision of a court of competent
 1056 jurisdiction from which no appeal can be taken or from which the
 1057 official or officials of this state with authority to make such
 1058 decisions has or have decided not to appeal.

1059 Section 10. Subsection (5) of section 213.27, Florida
 1060 Statutes, is amended to read:

1061 213.27 Contracts with debt collection agencies and certain
 1062 vendors.—

1063 (5) The department may, for the purpose of ascertaining
 1064 the amount of or collecting any taxes due from a person making
 1065 remote sales that are subject to s. 212.0596(2) or s. 212.05965
 1066 ~~doing mail order business in this state~~, contract with any
 1067 auditing agency doing business within or without this state for
 1068 the purpose of conducting an audit of such remote sales ~~mail~~
 1069 ~~order business~~; however, such audit agency may not conduct an
 1070 audit on behalf of the department of any person domiciled in
 1071 this state, person registered for sales and use tax purposes in
 1072 this state, or corporation filing a Florida corporate tax
 1073 return, if any such person or corporation objects to such audit
 1074 in writing to the department and the auditing agency. The
 1075 department shall notify the taxpayer by mail at least 30 days

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1076 before the department assigns the collection of such taxes.

1077 Section 11. (1) The Department of Revenue is authorized,
1078 and all conditions are deemed met, to adopt emergency rules
1079 pursuant to s. 120.54(4), Florida Statutes, for the purpose of
1080 administering this act.

1081 (2) Notwithstanding any other law, emergency rules adopted
1082 pursuant to subsection (1) are effective for 6 months after
1083 adoption and may be renewed during the pendency of procedures to
1084 adopt permanent rules addressing the subject of the emergency
1085 rules.

1086 (3) This section shall take effect upon this act becoming
1087 a law and expires July 1, 2022.

1088 Section 12. Except as otherwise expressly provided in this
1089 act and except for this section, which shall take effect upon
1090 this act becoming a law, this act shall take effect July 1,
1091 2021.