

By Senator Lynn

7-00085-12

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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 eliminating the use of brackets in the calculation of
28 sales and use taxes; amending s. 212.0506, F.S.;
29 eliminating the use of brackets in the calculation of

7-00085-12

2012430__

30 the tax on service warranties; amending s. 212.054,
31 F.S.; limiting the \$5,000 cap on discretionary sales
32 surtax to the sale of motor vehicles, aircraft, boats,
33 motor homes, manufactured homes, modular homes, and
34 mobile homes; specifying the time at which changes in
35 surtaxes may take effect; providing criteria to
36 determine the situs of certain sales; requiring the
37 Department of Revenue to notify dealers of changes in
38 surtax rates; providing for databases to identify
39 taxing jurisdictions; providing criteria for holding
40 purchasers harmless for failure to pay the correct
41 amount of tax; holding sellers harmless for failing to
42 collect a tax at a new rate under certain
43 circumstances; amending s. 212.055, F.S.; deleting a
44 provision providing for the emergency fire rescue
45 services and facilities surtax to be initiated on a
46 certain date after the approval of the tax in a
47 referendum; amending s. 212.06, F.S.; deleting a
48 reference to mail-order sales to conform to changes
49 made by the act; specifying procedures for the
50 sourcing of advertising and promotional direct mail;
51 specifying procedures for sourcing other direct mail;
52 providing definitions; providing that sales and use
53 taxes do not apply to transactions involving tangible
54 personal property that is exported from this state
55 under certain circumstances; amending s. 212.07, F.S.;
56 authorizing the Department of Revenue to use
57 electronic means to notify dealers of changes in the
58 sales and use tax rates; authorizing the Department of

7-00085-12

2012430__

59 Revenue to create and maintain a taxability matrix;
60 providing immunity from liability for acts in reliance
61 on the taxability matrix; amending s. 212.08, F.S.;
62 revising exemptions from the sales and use tax for
63 food and medical products; limiting the exemption for
64 building materials used in the rehabilitation of real
65 property located in an enterprise zone to one
66 exemption per building; defining terms relating to the
67 exemption for building materials used in the
68 rehabilitation of real property located in an
69 enterprise zone; exempting certain charges relating to
70 railroad cars that are subject to the jurisdiction of
71 the United States Interstate Commerce Commission from
72 sales and use taxes; exempting certain payments
73 relating to a high-voltage bulk transmission facility
74 from sales and use taxes; deleting references to
75 "qualifying property" to conform to changes made by
76 the act; creating s. 212.094, F.S.; providing a
77 procedure for a purchaser to obtain a refund of tax
78 collected by a dealer; amending s. 212.12, F.S.;

79 authorizing the Department of Revenue to establish
80 collection allowances for certified service providers;
81 deleting a reference to mail-order sales to conform to
82 changes made by the act; providing for the computation
83 of taxes based on rounding instead of brackets;
84 amending s. 212.15, F.S.; deleting a cross-reference
85 relating to a provision providing for the state to
86 hold certain tax revenues for the benefit of another
87 state, to conform to changes made by the act; amending

7-00085-12

2012430__

88 s. 212.17, F.S.; providing additional criteria for a
89 dealer to claim a credit or refund for taxes paid
90 relating to bad debts; amending s. 212.18, F.S.;
91 authorizing the Department of Revenue to waive the
92 dealer registration fee for applications submitted
93 through a multistate electronic registration system;
94 deleting a reference to mail-order sales to conform to
95 changes made by the act; amending s. 212.20, F.S.;
96 deleting procedures for refunds of tax paid on mail
97 order sales; specifying requirements for collection
98 allowances; authorizing the payment of collection
99 allowances to certain remote sellers; providing for
100 the reduction of funds transferred to the Local
101 Government Half-cent Sales Tax Clearing Trust Fund
102 beginning in 2013; creating s. 213.052, F.S.;
103 requiring the Department of Revenue to notify dealers
104 of changes in a sales and use tax rate; specifying
105 dates on which changes in sales and use tax rates may
106 take effect; creating s. 213.0521, F.S.; providing the
107 effective date for changes in the rate of state sales
108 and use taxes applying to services; creating s.
109 213.215, F.S.; providing amnesty for uncollected or
110 unpaid sales and use taxes for sellers who register
111 under the Streamlined Sales and Use Tax Agreement;
112 providing exceptions to the amnesty; amending s.
113 213.256, F.S.; defining terms; authorizing the
114 Department of Revenue to enter into agreements with
115 other states to simplify and facilitate compliance
116 with sales tax laws; creating s. 213.2562, F.S.;

7-00085-12

2012430__

117 requiring the Department of Revenue to review software
118 submitted to the governing board for certification as
119 a certified automated system; creating s. 213.2567,
120 F.S.; providing for the registration of sellers, the
121 certification of a person as a certified service
122 provider, and the certification of a software program
123 as a certified automated system by the governing board
124 under the Streamlined Sales and Use Tax Agreement;
125 authorizing the Department of Revenue to adopt
126 emergency rules; requiring the President of the Senate
127 and Speaker of the House of Representatives to create
128 a joint select committee to study certain matters
129 related to state taxation; amending ss. 11.45,
130 196.012, 202.18, 203.01, 212.052, 212.081, 212.13,
131 218.245, 218.65, 288.1045, 288.11621, 288.1169,
132 551.102, and 790.0655, F.S.; conforming cross-
133 references to changes made by the act; repealing s.
134 212.0596, F.S., relating to provisions pertaining to
135 the taxation of mail-order sales; providing an
136 effective date.

137

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

139

140 Section 1. Section 212.02, Florida Statutes, is reordered
141 and amended to read:

142 212.02 Definitions.—The following terms and phrases when
143 used in this chapter have the meanings ascribed to them in this
144 section, except where the context clearly indicates a different
145 meaning. The term or terms:

7-00085-12

2012430__

146 (1) ~~The term~~ "Admissions" means and includes the net sum of
147 money after deduction of any federal taxes for admitting a
148 person or vehicle or persons to any place of amusement, sport,
149 or recreation or for the privilege of entering or staying in any
150 place of amusement, sport, or recreation, including, but not
151 limited to, theaters, outdoor theaters, shows, exhibitions,
152 games, races, or any place where charge is made by way of sale
153 of tickets, gate charges, seat charges, box charges, season pass
154 charges, cover charges, greens fees, participation fees,
155 entrance fees, or other fees or receipts of anything of value
156 measured on an admission or entrance or length of stay or seat
157 box accommodations in any place where there is any exhibition,
158 amusement, sport, or recreation, and all dues and fees paid to
159 private clubs and membership clubs providing recreational or
160 physical fitness facilities, including, but not limited to,
161 golf, tennis, swimming, yachting, boating, athletic, exercise,
162 and fitness facilities, except physical fitness facilities owned
163 or operated by any hospital licensed under chapter 395.

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

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

- 173 1. "Distinct and identifiable products" does not include:
174 a. Packaging, such as containers, boxes, sacks, bags, and

7-00085-12

2012430__

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

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

186 c. Items included in the definition of sales price.

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

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

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

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

7-00085-12

2012430

204 (b) A transaction that otherwise satisfies the definition
205 of a bundled transaction, as defined in this subsection, is not
206 a bundled transaction if it is:

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

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

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

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

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

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

232 (5)~~(2)~~ "Business" means any activity engaged in by any

7-00085-12

2012430__

233 person, or caused to be engaged in by him or her, with the
234 object of private or public gain, benefit, or advantage, either
235 direct or indirect. Except for the sales of any aircraft, boat,
236 mobile home, or motor vehicle, the term "business" shall not be
237 construed in this chapter to include occasional or isolated
238 sales or transactions involving tangible personal property or
239 services by a person who does not hold himself or herself out as
240 engaged in business or sales of unclaimed tangible personal
241 property under s. 717.122, but includes other charges for the
242 sale or rental of tangible personal property, sales of services
243 taxable under this chapter, sales of or charges of admission,
244 communication services, all rentals and leases of living
245 quarters, other than low-rent housing operated under chapter
246 421, sleeping or housekeeping accommodations in hotels,
247 apartment houses, roominghouses, tourist or trailer camps, and
248 all rentals of or licenses in real property, other than low-rent
249 housing operated under chapter 421, all leases or rentals of or
250 licenses in parking lots or garages for motor vehicles, docking
251 or storage spaces for boats in boat docks or marinas as defined
252 in this chapter and made subject to a tax imposed by this
253 chapter. The term "business" shall not be construed in this
254 chapter to include the leasing, subleasing, or licensing of real
255 property by one corporation to another if all of the stock of
256 both such corporations is owned, directly or through one or more
257 wholly owned subsidiaries, by a common parent corporation; the
258 property was in use prior to July 1, 1989, title to the property
259 was transferred after July 1, 1988, and before July 1, 1989,
260 between members of an affiliated group, as defined in s. 1504(a)
261 of the Internal Revenue Code of 1986, which group included both

7-00085-12

2012430__

262 such corporations and there is no substantial change in the use
263 of the property following the transfer of title; the leasing,
264 subleasing, or licensing of the property was required by an
265 unrelated lender as a condition of providing financing to one or
266 more members of the affiliated group; and the corporation to
267 which the property is leased, subleased, or licensed had sales
268 subject to the tax imposed by this chapter of not less than \$667
269 million during the most recent 12-month period ended June 30.
270 Any tax on such sales, charges, rentals, admissions, or other
271 transactions made subject to the tax imposed by this chapter
272 shall be collected by the state, county, municipality, any
273 political subdivision, agency, bureau, or department, or other
274 state or local governmental instrumentality in the same manner
275 as other dealers, unless specifically exempted by this chapter.

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

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

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

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

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

7-00085-12

2012430__

291 ~~account of~~ the cost of materials used, labor or service costs,
292 transportation charges, or other ~~any~~ expenses ~~whatsoever~~.

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

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

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

310 (13) ~~(5)~~ The term "Department" means the Department of
311 Revenue.

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

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

7-00085-12

2012430__

320 institutional, storage, and industrial structures.

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

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

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

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

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

7-00085-12

2012430__

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

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

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

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

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

377 ~~(g) "Lease," "let," or "rental" also means the leasing or~~

7-00085-12

2012430__

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

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

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

405 (c)(j) Privilege, franchise, or concession fees, or fees
406 for a license to do business, paid to an airport are not

7-00085-12

2012430

407 payments for leasing, letting, renting, or granting a license
408 for the use of real property.

409 (d) Any transfer of possession or control of tangible
410 personal property for a fixed or indeterminate term for
411 consideration. A clause for a future option to purchase or to
412 extend an agreement does not preclude an agreement from being a
413 lease or rental. This definition shall be used for purposes of
414 the sales and use tax regardless of whether a transaction is
415 characterized as a lease or rental under generally accepted
416 accounting principles, the Internal Revenue Code, the Uniform
417 Commercial Code, or any other provisions of federal, state, or
418 local law. These terms include agreements covering motor
419 vehicles and trailers if the amount of consideration may be
420 increased or decreased by reference to the amount realized upon
421 sale or disposition of the property as provided in 26 U.S.C. s.
422 7701(h) (1). These terms do not include:

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

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

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

7-00085-12

2012430__

436 or set up the tangible personal property.

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

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

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

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

7-00085-12

2012430

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

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

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

7-00085-12

2012430

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

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

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

515 (35)~~(15)~~ "Sale" means and includes:

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

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

7-00085-12

2012430__

523 defined in this chapter.

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

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

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

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

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

7-00085-12

2012430

552 5. Installation charges; or

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

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

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

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

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

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

7-00085-12

2012430__

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

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

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

7-00085-12

2012430

610 or any other form of liquefied petroleum gas or compressed
611 natural gas.

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

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

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

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

7-00085-12

2012430__

639 (43)~~(20)~~ "Use" means and includes the exercise of any right
640 or power over tangible personal property incident to the
641 ownership thereof, or interest therein, except that it does not
642 include the sale at retail of that property in the regular
643 course of business. The term "use" does not include:

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

647 (b) A contractor's use of "qualifying property" as defined
648 by paragraph (34) (a) ~~paragraph (14) (a)~~.

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

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

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

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

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

7-00085-12

2012430__

668 (37)~~(25)~~ "Sea trial" means a voyage for the purpose of
669 testing repair or modification work, which is in length and
670 scope reasonably necessary to test repairs or modifications, or
671 a voyage for the purpose of ascertaining the seaworthiness of a
672 vessel. If the sea trial is to test repair or modification work,
673 the owner or repair facility shall certify, on ~~in~~ a form
674 required by the department, the ~~what~~ repairs that have been
675 tested. The owner and the repair facility may also be required
676 to certify that the length and scope of the voyage were
677 reasonably necessary to test the repairs or modifications.

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

685 (2)~~(27)~~ "Agricultural commodity" means horticultural and,
686 aquacultural products, poultry and farm products, and livestock
687 and livestock products.

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

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

7-00085-12

2012430__

697 fish raised for commercial purposes.

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

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

725 (30) "Product" means tangible personal property, a digital

7-00085-12

2012430

726 good, or a service. The term does not include real property and
727 services to real property.

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

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

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

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

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

7-00085-12

2012430__

755 Section 2. Paragraph (c) of subsection (7) of section
756 212.03, Florida Statutes, is amended to read:

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

759 (7)

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

7-00085-12

2012430

784 shall apply to the rental of facilities that no longer qualify
785 for exemption under this paragraph beginning the first day of
786 the owner's next succeeding accounting year. The provisions of
787 this paragraph do not apply to mobile home lots regulated under
788 chapter 723.

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

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

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

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

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

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

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

808 2. Used exclusively as dwelling units.

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

811 4. Recreational property or the common elements of a
812 condominium when subject to a lease between the developer or

7-00085-12

2012430__

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

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

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

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

840 8.a. Property used at a port authority, as defined in s.
841 315.02(2), exclusively for the purpose of oceangoing vessels or

7-00085-12

2012430__

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

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

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

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

7-00085-12

2012430__

871 looping, printing, processing, duplicating, storing, and
872 distributing;

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

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

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

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

7-00085-12

2012430__

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

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

7-00085-12

2012430__

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

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

7-00085-12

2012430__

958 under chapter 400, chapter 429, or chapter 651; or that provides
959 residences to the elderly and is financed by a mortgage or loan
960 made or insured by the United States Department of Housing and
961 Urban Development under s. 202, s. 202 with a s. 8 subsidy, s.
962 221(d)(3) or (4), s. 232, or s. 236 of the National Housing Act;
963 or other such similar facility that provides residences
964 primarily for the elderly.

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

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

7-00085-12

2012430__

987 rate of 6 percent of the value of the property, goods, wares,
988 merchandise, services, or other thing of value.

989 Section 5. The amendment to subparagraph 10. of paragraph
990 (a) of subsection (1) of section 212.031, Florida Statutes, made
991 by this act operates retroactively. However, the retroactive
992 operation of the amendment is remedial in nature and does not
993 create the right to a refund or require a refund by any
994 governmental entity of any tax, penalty, or interest remitted to
995 the Department of Revenue before January 1, 2013.

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

999 212.04 Admissions tax; rate, procedure, enforcement.—

1000 (1)

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

7-00085-12

2012430__

1016 surcharges, taxes, or fees, if any, imposed upon such admission.
1017 The sale price or actual value does not include separately
1018 stated ticket service charges that are imposed by a facility
1019 ticket office or a ticketing service and added to a separately
1020 stated, established ticket price. ~~The rate of tax on each~~
1021 ~~admission shall be according to the brackets established by s.~~
1022 ~~212.12(9).~~

1023 (2) (a)1. No tax shall be levied on admissions to athletic
1024 or other events sponsored by elementary schools, junior high
1025 schools, middle schools, high schools, community colleges,
1026 public or private colleges and universities, deaf and blind
1027 schools, facilities of the youth services programs of the
1028 Department of Children and Family Services, and state
1029 correctional institutions when only student, faculty, or inmate
1030 talent is used. However, this exemption shall not apply to
1031 admission to athletic events sponsored by a state university,
1032 and the proceeds of the tax collected on such admissions shall
1033 be retained and used by each institution to support women's
1034 athletics as provided in s. 1006.71(2)(c).

1035 2.a. No tax shall be levied on dues, membership fees, and
1036 admission charges imposed by not-for-profit sponsoring
1037 organizations. To receive this exemption, the sponsoring
1038 organization must qualify as a not-for-profit entity under the
1039 provisions of s. 501(c)(3) of the Internal Revenue Code of 1954,
1040 as amended.

1041 b. A tax may not be levied on admission charges to an event
1042 sponsored by a state college, state university, or community
1043 college if the event is held in a convention hall, exhibition
1044 hall, auditorium, stadium, theater, arena, civic center,

7-00085-12

2012430

1045 performing arts center, or publicly owned recreational facility
1046 and all of the risk of success or failure lies with the sponsor
1047 of the event, all of the funds at risk for the event belong to
1048 the sponsor, and student or faculty talent is not exclusively
1049 used. No tax shall be levied on admission charges to an event
1050 sponsored by a governmental entity, sports authority, or sports
1051 commission when held in a convention hall, exhibition hall,
1052 auditorium, stadium, theater, arena, civic center, performing
1053 arts center, or publicly owned recreational facility and when
1054 100 percent of the risk of success or failure lies with the
1055 sponsor of the event and 100 percent of the funds at risk for
1056 the event belong to the sponsor, and student or faculty talent
1057 is not exclusively used. As used in this sub-subparagraph, the
1058 terms "sports authority" and "sports commission" mean a
1059 nonprofit organization that is exempt from federal income tax
1060 under s. 501(c)(3) of the Internal Revenue Code and that
1061 contracts with a county or municipal government for the purpose
1062 of promoting and attracting sports-tourism events to the
1063 community with which it contracts.

1064 3. No tax shall be levied on an admission paid by a
1065 student, or on the student's behalf, to any required place of
1066 sport or recreation if the student's participation in the sport
1067 or recreational activity is required as a part of a program or
1068 activity sponsored by, and under the jurisdiction of, the
1069 student's educational institution, provided his or her
1070 attendance is as a participant and not as a spectator.

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

7-00085-12

2012430

1074 tournament; on admissions to a Major League Baseball, National
1075 Basketball Association, or National Hockey League all-star game;
1076 on admissions to the Major League Baseball Home Run Derby held
1077 before the Major League Baseball All-Star Game; or on admissions
1078 to the National Basketball Association Rookie Challenge,
1079 Celebrity Game, 3-Point Shooting Contest, or Slam Dunk
1080 Challenge.

1081 5. A participation fee or sponsorship fee imposed by a
1082 governmental entity as described in s. 212.08(6) for an athletic
1083 or recreational program is exempt when the governmental entity
1084 by itself, or in conjunction with an organization exempt under
1085 s. 501(c)(3) of the Internal Revenue Code of 1954, as amended,
1086 sponsors, administers, plans, supervises, directs, and controls
1087 the athletic or recreational program.

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

7-00085-12

2012430__

1103 ~~which~~ the organization ~~sponsors~~ and will bear the risk of at
1104 least 20 percent of the losses, if any, from the events ~~which~~ it
1105 sponsors if the organization employs other persons as agents to
1106 provide services in connection with a sponsored event. Prior to
1107 March 1 of each year, such organization may apply to the
1108 department for a certificate of exemption for admissions to such
1109 events sponsored in this state by the organization during the
1110 immediately following state fiscal year. The application shall
1111 state the total dollar amount of admissions receipts collected
1112 by the organization or its agents from such events in this state
1113 sponsored by the organization or its agents in the year
1114 immediately preceding the year in which the organization applies
1115 for the exemption. Such organization shall receive the exemption
1116 only to the extent of \$1.5 million multiplied by the ratio that
1117 such receipts bear to the total of such receipts of all
1118 organizations applying for the exemption in such year; however,
1119 in no event shall such exemption granted to any organization
1120 exceed 6 percent of such admissions receipts collected by the
1121 organization or its agents in the year immediately preceding the
1122 year in which the organization applies for the exemption. Each
1123 organization receiving the exemption shall report each month to
1124 the department the total admissions receipts collected from such
1125 events sponsored by the organization during the preceding month
1126 and shall remit to the department an amount equal to 6 percent
1127 of such receipts reduced by any amount remaining under the
1128 exemption. Tickets for such events sold by such organizations
1129 shall not reflect the tax otherwise imposed under this section.

1130 7. Also exempt from the tax imposed by this section are
1131 entry fees for participation in freshwater fishing tournaments.

7-00085-12

2012430__

1132 8. Also exempt from the tax imposed by this section are
1133 participation or entry fees charged to participants in a game,
1134 race, or other sport or recreational event if spectators are
1135 charged a taxable admission to such event.

1136 9. No tax shall be levied on admissions to any postseason
1137 collegiate football game sanctioned by the National Collegiate
1138 Athletic Association.

1139 Section 7. Section 212.05, Florida Statutes, is amended to
1140 read:

1141 212.05 Sales, storage, use tax.—It is ~~hereby~~ declared to be
1142 the legislative intent that every person is exercising a taxable
1143 privilege who engages in the business of selling tangible
1144 personal property at retail in this state, ~~including the~~
1145 ~~business of making mail order sales, or~~ who rents or furnishes
1146 any of the things or services taxable under this chapter, or who
1147 stores for use or consumption in this state any item or article
1148 of tangible personal property as defined herein and who leases
1149 or rents such property within the state.

1150 (1) For the exercise of such privilege, a tax is levied on
1151 each taxable transaction or incident, which tax is due and
1152 payable as follows:

1153 (a)1.a. At the rate of 6 percent of the sales price of each
1154 item or article of tangible personal property when sold at
1155 retail in this state, computed on each taxable sale for the
1156 purpose of remitting the amount of tax due the state, and
1157 including each and every retail sale.

1158 b. Each occasional or isolated sale of an aircraft, boat,
1159 mobile home, or motor vehicle of a class or type which is
1160 required to be registered, licensed, titled, or documented in

7-00085-12

2012430__

1161 this state or by the United States Government shall be subject
1162 to tax at the rate provided in this paragraph. The department
1163 shall by rule adopt any nationally recognized publication for
1164 valuation of used motor vehicles as the reference price list for
1165 any used motor vehicle that ~~which~~ is required to be licensed
1166 pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9).
1167 If any party to an occasional or isolated sale of such a vehicle
1168 reports to the tax collector a sales price that ~~which~~ is less
1169 than 80 percent of the average loan price for the specified
1170 model and year of such vehicle as listed in the most recent
1171 reference price list, the tax levied under this paragraph shall
1172 be computed by the department on such average loan price unless
1173 the parties to the sale have provided to the tax collector an
1174 affidavit signed by each party, or other substantial proof,
1175 stating the actual sales price. Any party to such sale who
1176 reports a sales price less than the actual sales price commits
1177 ~~is guilty of~~ a misdemeanor of the first degree, punishable as
1178 provided in s. 775.082 or s. 775.083. The department shall
1179 collect or attempt to collect from such party any delinquent
1180 sales taxes. In addition, such party shall pay any tax due and
1181 any penalty and interest assessed plus a penalty equal to twice
1182 the amount of the additional tax owed. Notwithstanding any other
1183 provision of law, the Department of Revenue may waive or
1184 compromise any penalty imposed pursuant to this subparagraph.

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

7-00085-12

2012430__

1190 in this state any employment, trade, business, or profession in
1191 which the boat or aircraft will be used in this state, or is a
1192 corporation none of the officers or directors of which is a
1193 resident of, or makes his or her permanent place of abode in,
1194 this state, or is a noncorporate entity that has no individual
1195 vested with authority to participate in the management,
1196 direction, or control of the entity's affairs who is a resident
1197 of, or makes his or her permanent abode in, this state. For
1198 purposes of this exemption, either a registered dealer acting on
1199 his or her own behalf as seller, a registered dealer acting as
1200 broker on behalf of a seller, or a registered dealer acting as
1201 broker on behalf of the purchaser may be deemed to be the
1202 selling dealer. This exemption shall not be allowed unless:

1203 a. The purchaser removes a qualifying boat, as described in
1204 sub-subparagraph f., from the state within 90 days after the
1205 date of purchase or extension, or the purchaser removes a
1206 nonqualifying boat or an aircraft from this state within 10 days
1207 after the date of purchase or, when the boat or aircraft is
1208 repaired or altered, within 20 days after completion of the
1209 repairs or alterations;

1210 b. The purchaser, within 30 days from the date of
1211 departure, shall provide the department with written proof that
1212 the purchaser licensed, registered, titled, or documented the
1213 boat or aircraft outside the state. If such written proof is
1214 unavailable, within 30 days the purchaser shall provide proof
1215 that the purchaser applied for such license, title,
1216 registration, or documentation. The purchaser shall forward to
1217 the department proof of title, license, registration, or
1218 documentation upon receipt;

7-00085-12

2012430

1219 c. The purchaser, within 10 days of removing the boat or
1220 aircraft from Florida, shall furnish the department with proof
1221 of removal in the form of receipts for fuel, dockage, slippage,
1222 tie-down, or hangaring from outside of Florida. The information
1223 so provided must clearly and specifically identify the boat or
1224 aircraft;

1225 d. The selling dealer, within 5 days of the date of sale,
1226 shall provide to the department a copy of the sales invoice,
1227 closing statement, bills of sale, and the original affidavit
1228 signed by the purchaser attesting that he or she has read the
1229 provisions of this section;

1230 e. The seller makes a copy of the affidavit a part of his
1231 or her record for as long as required by s. 213.35; and

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

7-00085-12

2012430__

1248 subparagraph. The selling dealer or his or her agent shall mark
1249 and affix the decals to qualifying boats in the manner
1250 prescribed by the department, prior to delivery of the boat.

1251 (I) The department is hereby authorized to charge dealers a
1252 fee sufficient to recover the costs of decals issued, except the
1253 extension decal shall cost \$425.

1254 (II) The proceeds from the sale of decals will be deposited
1255 into the administrative trust fund.

1256 (III) Decals shall display information to identify the boat
1257 as a qualifying boat under this sub-subparagraph, including, but
1258 not limited to, the decal's date of expiration.

1259 (IV) The department is authorized to require dealers who
1260 purchase decals to file reports with the department and may
1261 prescribe all necessary records by rule. All such records are
1262 subject to inspection by the department.

1263 (V) Any dealer or his or her agent who issues a decal
1264 falsely, fails to affix a decal, mismarks the expiration date of
1265 a decal, or fails to properly account for decals will be
1266 considered prima facie to have committed a fraudulent act to
1267 evade the tax and will be liable for payment of the tax plus a
1268 mandatory penalty of 200 percent of the tax, and shall be liable
1269 for fine and punishment as provided by law for a conviction of a
1270 misdemeanor of the first degree, as provided in s. 775.082 or s.
1271 775.083.

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

7-00085-12

2012430__

1277 considered prima facie to have committed a fraudulent act to
1278 evade the tax and will be liable for payment of the tax plus a
1279 mandatory penalty of 200 percent of the tax, and shall be liable
1280 for fine and punishment as provided by law for a conviction of a
1281 misdemeanor of the first degree, as provided in s. 775.082 or s.
1282 775.083.

1283 (VII) The department is authorized to adopt rules necessary
1284 to administer and enforce this subparagraph and to publish the
1285 necessary forms and instructions.

1286 (VIII) The department is hereby authorized to adopt
1287 emergency rules pursuant to s. 120.54(4) to administer and
1288 enforce the provisions of this subparagraph.

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

7-00085-12

2012430__

1306 reason.

1307 (b) At the rate of 6 percent of the cost price of each item
1308 or article of tangible personal property when the same is not
1309 sold but is used, consumed, distributed, or stored for use or
1310 consumption in this state; however, for tangible property
1311 originally purchased exempt from tax for use exclusively for
1312 lease and which is converted to the owner's own use, tax may be
1313 paid on the fair market value of the property at the time of
1314 conversion. If the fair market value of the property cannot be
1315 determined, use tax at the time of conversion shall be based on
1316 the owner's acquisition cost. Under no circumstances may the
1317 aggregate amount of sales tax from leasing the property and use
1318 tax due at the time of conversion be less than the total sales
1319 tax that would have been due on the original acquisition cost
1320 paid by the owner.

1321 (c) At the rate of 6 percent of the gross proceeds derived
1322 from the lease or rental of tangible personal property, as
1323 ~~defined herein.~~; ~~however, the following special provisions apply~~
1324 ~~to the lease or rental of motor vehicles:~~

1325 ~~1. When a motor vehicle is leased or rented for a period of~~
1326 ~~less than 12 months:~~

1327 ~~a. If the motor vehicle is rented in Florida, the entire~~
1328 ~~amount of such rental is taxable, even if the vehicle is dropped~~
1329 ~~off in another state.~~

1330 ~~b. If the motor vehicle is rented in another state and~~
1331 ~~dropped off in Florida, the rental is exempt from Florida tax.~~

1332 ~~2. Except as provided in subparagraph 3., for the lease or~~
1333 ~~rental of a motor vehicle for a period of not less than 12~~
1334 ~~months, sales tax is due on the lease or rental payments if the~~

7-00085-12

2012430__

1335 ~~vehicle is registered in this state; provided, however, that no~~
1336 ~~tax shall be due if the taxpayer documents use of the motor~~
1337 ~~vehicle outside this state and tax is being paid on the lease or~~
1338 ~~rental payments in another state.~~

1339 ~~3. The tax imposed by this chapter does not apply to the~~
1340 ~~lease or rental of a commercial motor vehicle as defined in s.~~
1341 ~~316.003(66) (a) to one lessee or rentee for a period of not less~~
1342 ~~than 12 months when tax was paid on the purchase price of such~~
1343 ~~vehicle by the lessor. To the extent tax was paid with respect~~
1344 ~~to the purchase of such vehicle in another state, territory of~~
1345 ~~the United States, or the District of Columbia, the Florida tax~~
1346 ~~payable shall be reduced in accordance with the provisions of s.~~
1347 ~~212.06(7). This subparagraph shall only be available when the~~
1348 ~~lease or rental of such property is an established business or~~
1349 ~~part of an established business or the same is incidental or~~
1350 ~~germane to such business.~~

1351 (d) At the rate of 6 percent of the lease or rental price
1352 paid by a lessee or rentee, or contracted or agreed to be paid
1353 by a lessee or rentee, to the owner of the tangible personal
1354 property.

1355 (e)1. At the rate of 6 percent on charges for:

1356 a. Prepaid calling arrangements. The tax on charges for
1357 prepaid calling arrangements shall be collected at the time of
1358 sale and remitted by the selling dealer.

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

7-00085-12

2012430__

1364 in predetermined units or dollars whose number declines with use
1365 in a known amount.

1366 (II) The sale or recharge of the prepaid calling
1367 arrangement is deemed to take place in accordance with s.
1368 212.054. If the sale or recharge of the prepaid calling
1369 arrangement does not take place at the dealer's place of
1370 business, it shall be deemed to take place at the customer's
1371 shipping address or, if no item is shipped, at the customer's
1372 address or the location associated with the customer's mobile
1373 telephone number.

1374 (III) The sale or recharge of a prepaid calling arrangement
1375 shall be treated as a sale of tangible personal property for
1376 purposes of this chapter, whether or not a tangible item
1377 evidencing such arrangement is furnished to the purchaser, and
1378 such sale within this state subjects the selling dealer to the
1379 jurisdiction of this state for purposes of this subsection.

1380 b. The installation of telecommunication and telegraphic
1381 equipment.

1382 c. Electrical power or energy, except that the tax rate for
1383 charges for electrical power or energy is 7 percent.

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

7-00085-12

2012430__

1393 state, or any municipality upon the purchase, sale, or recharge
1394 of prepaid calling arrangements or upon the purchase or sale of
1395 telecommunication, television system program, or telegraph
1396 service or electric power, which tax is collected by the seller
1397 from the purchaser.

1398 (f) At the rate of 6 percent on the sale, rental, use,
1399 consumption, or storage for use in this state of machines and
1400 equipment, and parts and accessories therefor, used in
1401 manufacturing, processing, compounding, producing, mining, or
1402 quarrying personal property for sale or to be used in furnishing
1403 communications, transportation, or public utility services.

1404 (g)1. At the rate of 6 percent on the retail price of
1405 newspapers and magazines sold or used in Florida.

1406 2. Notwithstanding other provisions of this chapter,
1407 inserts of printed materials which are distributed with a
1408 newspaper or magazine are a component part of the newspaper or
1409 magazine, and neither the sale nor use of such inserts is
1410 subject to tax when:

1411 a. Printed by a newspaper or magazine publisher or
1412 commercial printer and distributed as a component part of a
1413 newspaper or magazine, which means that the items after being
1414 printed are delivered directly to a newspaper or magazine
1415 publisher by the printer for inclusion in editions of the
1416 distributed newspaper or magazine;

1417 b. Such publications are labeled as part of the designated
1418 newspaper or magazine publication into which they are to be
1419 inserted; and

1420 c. The purchaser of the insert presents a resale
1421 certificate to the vendor stating that the inserts are to be

7-00085-12

2012430__

1422 distributed as a component part of a newspaper or magazine.

1423 (h)1. A tax is imposed at the rate of 4 percent on the
1424 charges for the use of coin-operated amusement machines. The tax
1425 shall be calculated by dividing the gross receipts from such
1426 charges for the applicable reporting period by a divisor,
1427 determined as provided in this subparagraph, to compute gross
1428 taxable sales, and then subtracting gross taxable sales from
1429 gross receipts to arrive at the amount of tax due. For counties
1430 that do not impose a discretionary sales surtax, the divisor is
1431 equal to 1.04; for counties that impose a 0.5 percent
1432 discretionary sales surtax, the divisor is equal to 1.045; for
1433 counties that impose a 1 percent discretionary sales surtax, the
1434 divisor is equal to 1.050; and for counties that impose a 2
1435 percent sales surtax, the divisor is equal to 1.060. If a county
1436 imposes a discretionary sales surtax that is not listed in this
1437 subparagraph, the department shall make the applicable divisor
1438 available in an electronic format or otherwise. Additional
1439 divisors shall bear the same mathematical relationship to the
1440 next higher and next lower divisors as the new surtax rate bears
1441 to the next higher and next lower surtax rates for which
1442 divisors have been established. When a machine is activated by a
1443 slug, token, coupon, or any similar device that ~~which~~ has been
1444 purchased, the tax is on the price paid by the user of the
1445 device for such device.

1446 2. As used in this paragraph, the term "operator" means any
1447 person who possesses a coin-operated amusement machine for the
1448 purpose of generating sales through that machine and who is
1449 responsible for removing the receipts from the machine.

1450 a. If the owner of the machine is also the operator of it,

7-00085-12

2012430__

1451 he or she shall be liable for payment of the tax without any
1452 deduction for rent or a license fee paid to a location owner for
1453 the use of any real property on which the machine is located.

1454 b. If the owner or lessee of the machine is also its
1455 operator, he or she shall be liable for payment of the tax on
1456 the purchase or lease of the machine, as well as the tax on
1457 sales generated through the machine.

1458 c. If the proprietor of the business where the machine is
1459 located does not own the machine, he or she shall be deemed to
1460 be the lessee and operator of the machine and is responsible for
1461 the payment of the tax on sales, unless such responsibility is
1462 otherwise provided for in a written agreement between him or her
1463 and the machine owner.

1464 3.a. An operator of a coin-operated amusement machine may
1465 not operate or cause to be operated in this state any such
1466 machine until the operator has registered with the department
1467 and has conspicuously displayed an identifying certificate
1468 issued by the department. The identifying certificate shall be
1469 issued by the department upon application from the operator. The
1470 identifying certificate shall include a unique number, and the
1471 certificate shall be permanently marked with the operator's
1472 name, the operator's sales tax number, and the maximum number of
1473 machines to be operated under the certificate. An identifying
1474 certificate shall not be transferred from one operator to
1475 another. The identifying certificate must be conspicuously
1476 displayed on the premises where the coin-operated amusement
1477 machines are being operated.

1478 b. The operator of the machine must obtain an identifying
1479 certificate before the machine is first operated in the state

7-00085-12

2012430

1480 and by July 1 of each year thereafter. The annual fee for each
1481 certificate shall be based on the number of machines identified
1482 on the application times \$30 and is due and payable upon
1483 application for the identifying device. The application shall
1484 contain the operator's name, sales tax number, business address
1485 where the machines are being operated, and the number of
1486 machines in operation at that place of business by the operator.
1487 No operator may operate more machines than are listed on the
1488 certificate. A new certificate is required if more machines are
1489 being operated at that location than are listed on the
1490 certificate. The fee for the new certificate shall be based on
1491 the number of additional machines identified on the application
1492 form times \$30.

1493 c. A penalty of \$250 per machine is imposed on the operator
1494 for failing to properly obtain and display the required
1495 identifying certificate. A penalty of \$250 is imposed on the
1496 lessee of any machine placed in a place of business without a
1497 proper current identifying certificate. Such penalties shall
1498 apply in addition to all other applicable taxes, interest, and
1499 penalties.

1500 d. Operators of coin-operated amusement machines must
1501 obtain a separate sales and use tax certificate of registration
1502 for each county in which such machines are located. One sales
1503 and use tax certificate of registration is sufficient for all of
1504 the operator's machines within a single county.

1505 4. The provisions of this paragraph do not apply to coin-
1506 operated amusement machines owned and operated by churches or
1507 synagogues.

1508 5. In addition to any other penalties imposed by this

7-00085-12

2012430__

1509 chapter, a person who knowingly and willfully violates any
1510 provision of this paragraph commits a misdemeanor of the second
1511 degree, punishable as provided in s. 775.082 or s. 775.083.

1512 6. The department may adopt rules necessary to administer
1513 the provisions of this paragraph.

1514 (i)1. At the rate of 6 percent on charges for all:

1515 a. Detective, burglar protection, and other protection
1516 services (NAICS National Numbers 561611, 561612, 561613, and
1517 561621). Any law enforcement officer, as defined in s. 943.10,
1518 who is performing approved duties as determined by his or her
1519 local law enforcement agency in his or her capacity as a law
1520 enforcement officer, and who is subject to the direct and
1521 immediate command of his or her law enforcement agency, and in
1522 the law enforcement officer's uniform as authorized by his or
1523 her law enforcement agency, is performing law enforcement and
1524 public safety services and is not performing detective, burglar
1525 protection, or other protective services, if the law enforcement
1526 officer is performing his or her approved duties in a
1527 geographical area in which the law enforcement officer has
1528 arrest jurisdiction. Such law enforcement and public safety
1529 services are not subject to tax irrespective of whether the duty
1530 is characterized as "extra duty," "off-duty," or "secondary
1531 employment," and irrespective of whether the officer is paid
1532 directly or through the officer's agency by an outside source.
1533 The term "law enforcement officer" includes full-time or part-
1534 time law enforcement officers, and any auxiliary law enforcement
1535 officer, when such auxiliary law enforcement officer is working
1536 under the direct supervision of a full-time or part-time law
1537 enforcement officer.

7-00085-12

2012430__

1538 b. Nonresidential cleaning, excluding cleaning of the
1539 interiors of transportation equipment, and nonresidential
1540 building pest control services (NAICS National Numbers 561710
1541 and 561720).

1542 2. As used in this paragraph, "NAICS" means those
1543 classifications contained in the North American Industry
1544 Classification System, as published in 2007 by the Office of
1545 Management and Budget, Executive Office of the President.

1546 3. Charges for detective, burglar protection, and other
1547 protection security services performed in this state but used
1548 outside this state are exempt from taxation. Charges for
1549 detective, burglar protection, and other protection security
1550 services performed outside this state and used in this state are
1551 subject to tax.

1552 4. If a transaction involves both the sale or use of a
1553 service taxable under this paragraph and the sale or use of a
1554 service or any other item not taxable under this chapter, the
1555 consideration paid must be separately identified and stated with
1556 respect to the taxable and exempt portions of the transaction or
1557 the entire transaction shall be presumed taxable. The burden
1558 shall be on the seller of the service or the purchaser of the
1559 service, whichever applicable, to overcome this presumption by
1560 providing documentary evidence as to which portion of the
1561 transaction is exempt from tax. The department is authorized to
1562 adjust the amount of consideration identified as the taxable and
1563 exempt portions of the transaction; however, a determination
1564 that the taxable and exempt portions are inaccurately stated and
1565 that the adjustment is applicable must be supported by
1566 substantial competent evidence.

7-00085-12

2012430__

1567 5. Each seller of services subject to sales tax pursuant to
1568 this paragraph shall maintain a monthly log showing each
1569 transaction for which sales tax was not collected because the
1570 services meet the requirements of subparagraph 3. for out-of-
1571 state use. The log must identify the purchaser's name, location
1572 and mailing address, and federal employer identification number,
1573 if a business, or the social security number, if an individual,
1574 the service sold, the price of the service, the date of sale,
1575 the reason for the exemption, and the sales invoice number. The
1576 monthly log shall be maintained pursuant to the same
1577 requirements and subject to the same penalties imposed for the
1578 keeping of similar records pursuant to this chapter.

1579 (j)1. Notwithstanding any other provision of this chapter,
1580 there is ~~hereby~~ levied a tax on the sale, use, consumption, or
1581 storage for use in this state of any coin or currency, whether
1582 in circulation or not, when such coin or currency:

1583 a. Is not legal tender;

1584 b. If legal tender, is sold, exchanged, or traded at a rate
1585 in excess of its face value; or

1586 c. Is sold, exchanged, or traded at a rate based on its
1587 precious metal content.

1588 2. Such tax shall be at a rate of 6 percent of the price at
1589 which the coin or currency is sold, exchanged, or traded, except
1590 that, with respect to a coin or currency that ~~which~~ is legal
1591 tender of the United States and that ~~which~~ is sold, exchanged,
1592 or traded, such tax shall not be levied.

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

7-00085-12

2012430__

1596 general circulation in, and legal tender of, another nation when
1597 exchanged solely for use as legal tender and at an exchange rate
1598 based on the relative value of each as a medium of exchange are
1599 exempt from this tax.

1600 4. With respect to any transaction that involves the sale
1601 of coins or currency taxable under this paragraph in which the
1602 taxable amount represented by the sale of such coins or currency
1603 exceeds \$500, the entire amount represented by the sale of such
1604 coins or currency is exempt from the tax imposed under this
1605 paragraph. The dealer must maintain proper documentation, as
1606 prescribed by rule of the department, to identify that portion
1607 of a transaction which involves the sale of coins or currency
1608 and is exempt under this subparagraph.

1609 (k) At the rate of 6 percent of the sales price of each
1610 gallon of diesel fuel not taxed under chapter 206 purchased for
1611 use in a vessel.

1612 (l) Florists located in this state are liable for sales tax
1613 on sales to retail customers regardless of where or by whom the
1614 items sold are to be delivered. Florists located in this state
1615 are not liable for sales tax on payments received from other
1616 florists for items delivered to customers in this state.

1617 (m) Operators of game concessions or other concessionaires
1618 who customarily award tangible personal property as prizes may,
1619 in lieu of paying tax on the cost price of such property, pay
1620 tax on 25 percent of the gross receipts from such concession
1621 activity.

1622 (2) The tax shall be collected by the dealer, as defined
1623 herein, and remitted by the dealer to the state at the time and
1624 in the manner as hereinafter provided.

7-00085-12

2012430__

1625 (3) The tax so levied is in addition to all other taxes,
1626 whether levied in the form of excise, license, or privilege
1627 taxes, and in addition to all other fees and taxes levied.

1628 ~~(4) The tax imposed pursuant to this chapter shall be due~~
1629 ~~and payable according to the brackets set forth in s. 212.12.~~

1630 (4)~~(5)~~ Notwithstanding any other provision of this chapter,
1631 the maximum amount of tax imposed under this chapter and
1632 collected on each sale or use of a boat in this state may not
1633 exceed \$18,000.

1634 Section 8. Subsections (6), (7), (8), (9), (10), and (11)
1635 of section 212.0506, Florida Statutes, are amended to read:

1636 212.0506 Taxation of service warranties.—

1637 ~~(6) This tax shall be due and payable according to the~~
1638 ~~brackets set forth in s. 212.12.~~

1639 (6)~~(7)~~ This tax shall not apply to any portion of the
1640 consideration received by any person in connection with the
1641 issuance of any service warranty contract upon which such person
1642 is required to pay any premium tax imposed under the Florida
1643 Insurance Code or under s. 634.313(1).

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

7-00085-12

2012430__

1654 for a service warranty subject to such tax. If the consideration
 1655 is not apportioned in good faith, the department may reform the
 1656 contract; such reformation by the department is to be considered
 1657 prima facie correct, and the burden to show the contrary rests
 1658 upon the dealer. If the consideration for such a transaction is
 1659 not separately identified and stated, the entire transaction is
 1660 taxable.

1661 (8)~~(9)~~ Any claim that ~~which~~ arises under a service warranty
 1662 taxable under this section, which claim is paid directly by the
 1663 person issuing such warranty, is not subject to any tax imposed
 1664 under this chapter.

1665 (9)~~(10)~~ Materials and supplies used in the performance of a
 1666 factory or manufacturer's warranty are exempt if the contract is
 1667 furnished at no extra charge with the equipment guaranteed
 1668 thereunder and such materials and supplies are paid for by the
 1669 factory or manufacturer.

1670 (10)~~(11)~~ Any duties imposed by this chapter upon dealers of
 1671 tangible personal property with respect to collecting and
 1672 remitting taxes; making returns; keeping books, records, and
 1673 accounts; and complying with the rules and regulations of the
 1674 department apply to all dealers as defined in s. 212.06(2)(1).

1675 Section 9. Section 212.054, Florida Statutes, is amended to
 1676 read:

1677 212.054 Discretionary sales surtax; limitations,
 1678 administration, and collection.—

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

7-00085-12

2012430__

1683 collected exclusively as provided in this section.

1684 (2) (a) The tax imposed by the governing body of any county
1685 authorized to so levy pursuant to s. 212.055 shall be a
1686 discretionary surtax on all transactions occurring in the county
1687 which transactions are subject to the state tax imposed on
1688 sales, use, services, rentals, admissions, and other
1689 transactions by this chapter and communications services as
1690 defined for purposes of chapter 202. The surtax, if levied,
1691 shall be computed as the applicable rate or rates authorized
1692 pursuant to s. 212.055 times the amount of taxable sales and
1693 taxable purchases representing such transactions. If the surtax
1694 is levied on the sale of an item of tangible personal property
1695 or on the sale of a service, the surtax shall be computed by
1696 multiplying the rate imposed by the county within which the sale
1697 occurs by the amount of the taxable sale. The sale of an item of
1698 tangible personal property or the sale of a service is not
1699 subject to the surtax if the property, the service, or the
1700 tangible personal property representing the service is delivered
1701 within a county that does not impose a discretionary sales
1702 surtax.

1703 (b) However:

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

7-00085-12

2012430__

1712 ~~same purchaser at the same time and, under generally accepted~~
1713 ~~business practice or industry standards or usage, are normally~~
1714 ~~sold in bulk or are items that, when assembled, comprise a~~
1715 ~~working unit or part of a working unit, such items must be~~
1716 ~~considered a single item for purposes of the \$5,000 limitation~~
1717 ~~when supported by a charge ticket, sales slip, invoice, or other~~
1718 ~~tangible evidence of a single sale or rental.~~

1719 2. In the case of utility services covering a period
1720 starting before and ending after the effective date of the
1721 surtax, the rate applies as follows:

1722 a. In the case of a rate adoption or increase, the new rate
1723 applies to the first billing period starting on or after the
1724 effective date of the surtax adoption or increase.

1725 b. In the case of a rate decrease or termination, the new
1726 rate applies to bills rendered on or after the effective date of
1727 the rate change billed on or after the effective date of any
1728 ~~such surtax, the entire amount of the charge for utility~~
1729 ~~services shall be subject to the surtax. In the case of utility~~
1730 ~~services billed after the last day the surtax is in effect, the~~
1731 ~~entire amount of the charge on said items shall not be subject~~
1732 ~~to the surtax. "Utility service," as used in this section, does~~
1733 ~~not include any communications services as defined in chapter~~
1734 ~~202.~~

1735 3. In the case of written contracts ~~that~~ which are signed
1736 prior to the effective date of any such surtax for the
1737 construction of improvements to real property or for remodeling
1738 of existing structures, the surtax shall be paid by the
1739 contractor responsible for the performance of the contract.
1740 However, the contractor may apply for one refund of any such

7-00085-12

2012430__

1741 surtax paid on materials necessary for the completion of the
1742 contract. Any application for refund shall be made no later than
1743 15 months following initial imposition of the surtax in that
1744 county. The application for refund shall be in the manner
1745 prescribed by the department by rule. A complete application
1746 shall include proof of the written contract and of payment of
1747 the surtax. The application shall contain a sworn statement,
1748 signed by the applicant or its representative, attesting to the
1749 validity of the application. The department shall, within 30
1750 days after approval of a complete application, certify to the
1751 county information necessary for issuance of a refund to the
1752 applicant. Counties are hereby authorized to issue refunds for
1753 this purpose and shall set aside from the proceeds of the surtax
1754 a sum sufficient to pay any refund lawfully due. Any person who
1755 fraudulently obtains or attempts to obtain a refund pursuant to
1756 this subparagraph, in addition to being liable for repayment of
1757 any refund fraudulently obtained plus a mandatory penalty of 100
1758 percent of the refund, is guilty of a felony of the third
1759 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1760 775.084.

1761 4. In the case of any vessel, railroad, or motor vehicle
1762 common carrier entitled to partial exemption from tax imposed
1763 under this chapter pursuant to s. 212.08(4), (8), or (9), the
1764 basis for imposition of surtax shall be the same as provided in
1765 s. 212.08 and the ratio shall be applied each month to total
1766 purchases in this state of property qualified for proration
1767 which is delivered or sold in the taxing county to establish the
1768 portion used and consumed in intracounty movement and subject to
1769 surtax.

7-00085-12

2012430__

1770 (3) For the purpose of this section, a transaction shall be
1771 deemed to have occurred in a county imposing the surtax as
1772 follows ~~when~~:

1773 (a)1. Except as otherwise provided in this section, a
1774 retail sale subject to tax under this section, excluding a lease
1775 or rental, shall be deemed to take place:

1776 a. At the business location of the dealer, if the product
1777 is received by the purchaser at that business location;

1778 b. At the location where the product is received by the
1779 purchaser or the purchaser's designated agent, including the
1780 location indicated by instructions for delivery to the purchaser
1781 or agent, known to the dealer, if the product is not received by
1782 the purchaser or designated agent at a business location of the
1783 dealer;

1784 c. If sub-subparagraphs a. and b. do not apply, at the
1785 location identified as the address for the purchaser in the
1786 business records maintained by the dealer in the ordinary course
1787 of the dealer's business, if use of this address does not
1788 constitute bad faith;

1789 d. If sub-subparagraphs a., b., and c. do not apply, at the
1790 location indicated by an address for the purchaser obtained
1791 during the consummation of the sale, including the address on
1792 the purchaser's payment instrument, if no other address is
1793 available, if use of this address does not constitute bad faith;
1794 or

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

7-00085-12

2012430

1799 digital good or the computer software delivered electronically
1800 was first available for transmission by the dealer, or from
1801 which the service was provided, disregarding any location that
1802 merely provided the digital transfer of the product sold.

1803 2. As used in this paragraph, the terms "receive" and
1804 "receipt" mean:

1805 a. Taking possession of tangible personal property;
1806 b. Making first use of the services; or
1807 c. Taking possession or making first use of digital goods,
1808 whichever occurs first.

1809
1810 The terms "receive" and "receipt" do not include possession by a
1811 shipping company on behalf of a purchaser.

1812 3. As used in this paragraph, the term "delivered
1813 electronically" means delivered to the purchaser by means other
1814 than tangible storage media.

1815 (b) The lease or rental of tangible personal property,
1816 other than property identified in paragraphs (c) and (d), shall
1817 be deemed to have occurred as follows:

1818 1. For a lease or rental that requires recurring periodic
1819 payments, the first periodic payment is deemed to take place in
1820 accordance with paragraph (a), notwithstanding the exclusion of
1821 a lease or rental in paragraph (a). Subsequent periodic payments
1822 are deemed to have occurred at the primary property location for
1823 each period covered by the payment. The primary property
1824 location is determined by an address for the property provided
1825 by the lessee which is available to the lessor from its records
1826 maintained in the ordinary course of business, if use of this
1827 address does not constitute bad faith. The property location is

7-00085-12

2012430

1828 not altered by intermittent use of the property at different
1829 locations, such as use of business property that accompanies
1830 employees on business trips and service calls.

1831 2. For a lease or rental that does not require recurring
1832 periodic payments, the payment is deemed to take place in
1833 accordance with paragraph (a), notwithstanding the exclusion of
1834 a lease or rental in paragraph (a).

1835 3. This paragraph does not affect the imposition or
1836 computation of sales or use tax on leases or rentals based on a
1837 lump sum or accelerated basis or on the acquisition of property
1838 for lease.

1839 (c) The lease or rental of a motor vehicle or aircraft that
1840 does not qualify as transportation equipment, as defined in
1841 paragraph (d), shall be sourced as follows:

1842 1. For a lease or rental that requires recurring periodic
1843 payments, each periodic payment is deemed to take place at the
1844 primary property location. The primary property location shall
1845 be determined by an address for the property provided by the
1846 lessee which is available to the lessor from its records
1847 maintained in the ordinary course of business, if use of this
1848 address does not constitute bad faith. This location is not
1849 altered by intermittent use at different locations.

1850 2. For a lease or rental that does not require recurring
1851 periodic payments, the payment is deemed to take place in
1852 accordance with paragraph (a), notwithstanding the exclusion of
1853 a lease or rental in paragraph (a).

1854 3. This paragraph does not affect the imposition or
1855 computation of sales or use tax on leases or rentals based on a
1856 lump sum or accelerated basis or on the acquisition of property

7-00085-12

2012430__

1857 for lease.

1858 (d) The retail sale, including a lease or rental, of
1859 transportation equipment shall be deemed to take place in
1860 accordance with paragraph (a), notwithstanding the exclusion of
1861 a lease or rental in paragraph (a). The term "transportation
1862 equipment" means:

1863 1. Locomotives and rail cars that are used for the carriage
1864 of persons or property in interstate commerce;

1865 2. Trucks and truck tractors with a Gross Vehicle Weight
1866 Rating (GVWR) of 10,001 pounds or greater, trailers,
1867 semitrailers, or passenger buses that are registered through the
1868 International Registration Plan and operated under authority of
1869 a carrier authorized and certificated by the United States
1870 Department of Transportation or another federal authority to
1871 engage in the carriage of persons or property in interstate
1872 commerce;

1873 3. Aircraft that are operated by air carriers authorized
1874 and certificated by the United States Department of
1875 Transportation or another federal or a foreign authority to
1876 engage in the carriage of persons or property in interstate or
1877 foreign commerce; or

1878 4. Containers designed for use on and component parts
1879 attached or secured on the items set forth in subparagraphs 1.-
1880 3.

1881 (e)(a)1. The retail sale of a modular or manufactured home,
1882 not including a mobile home, occurs in the county to which the
1883 house is delivered includes an item of tangible personal
1884 property, a service, or tangible personal property representing
1885 a service, and the item of tangible personal property, the

7-00085-12

2012430__

1886 ~~service, or the tangible personal property representing the~~
1887 ~~service is delivered within the county. If there is no~~
1888 ~~reasonable evidence of delivery of a service, the sale of a~~
1889 ~~service is deemed to occur in the county in which the purchaser~~
1890 ~~accepts the bill of sale.~~

1891 (f)2. The retail sale, excluding a lease or rental, of any
1892 motor vehicle that does not qualify as transportation equipment,
1893 as defined in paragraph (d), or the retail sale of a ~~of any~~
1894 ~~motor vehicle or~~ mobile home of a class or type that ~~which~~ is
1895 required to be registered in this state or in any other state is
1896 shall be deemed to occur ~~have occurred~~ only in the county
1897 identified from ~~as~~ the ~~residence~~ address of the purchaser on the
1898 registration or title document for the ~~such~~ property.

1899 (g)~~(b)~~ Admission charged for an event occurs ~~The event for~~
1900 ~~which an admission is charged is located in the county in which~~
1901 the event is held.

1902 (h)~~(e)~~ A lease or rental of real property occurs in the
1903 county in which the real property is located. ~~The consumer of~~
1904 ~~utility services is located in the county.~~

1905 (i)~~(d)~~1. The retail sale, excluding a lease or rental, of
1906 any aircraft that does not qualify as transportation equipment,
1907 as defined in paragraph (d), or of any boat of a class or type
1908 that is required to be registered, licensed, titled, or
1909 documented in this state or by the United States Government
1910 occurs in the county to which the aircraft or boat is delivered.

1911 2. The user of any aircraft or boat of a class or type that
1912 ~~which~~ is required to be registered, licensed, titled, or
1913 documented in this state or by the United States Government
1914 imported into the county for use, consumption, distribution, or

7-00085-12

2012430__

1915 storage to be used or consumed occurs in the county in which the
 1916 user is located ~~in the county~~.

1917 ~~3.2.~~ However, it shall be presumed that such items used
 1918 outside the county imposing the surtax for 6 months or longer
 1919 before being imported into the county were not purchased for use
 1920 in the county, except as provided in s. 212.06(8)(b).

1921 ~~4.3.~~ This paragraph does not apply to the use or
 1922 consumption of items upon which a like tax of equal or greater
 1923 amount has been lawfully imposed and paid outside the county.

1924 ~~(j)-(e)~~ The purchase purchaser of any motor vehicle or
 1925 mobile home of a class or type that ~~which~~ is required to be
 1926 registered in this state occurs in the county identified from
 1927 the residential address of the purchaser ~~is a resident of the~~
 1928 ~~taxing county as determined by the address appearing on or to be~~
 1929 ~~reflected~~ on the registration document for the ~~such~~ property.

1930 ~~(k)-(f)~~1. The use, consumption, distribution, or storage of
 1931 a Any motor vehicle or mobile home of a class or type that ~~which~~
 1932 is required to be registered in this state and that is imported
 1933 from another state occurs in the county to which it is imported
 1934 ~~into the taxing county by a user residing therein for the~~
 1935 ~~purpose of use, consumption, distribution, or storage in the~~
 1936 ~~taxing county~~.

1937 2. However, it shall be presumed that such items used
 1938 outside the taxing county for 6 months or longer before being
 1939 imported into the county were not purchased for use in the
 1940 county.

1941 ~~(g)~~ ~~The real property which is leased or rented is located~~
 1942 ~~in the county~~.

1943 ~~(l)-(h)~~ A The transient rental transaction occurs in the

7-00085-12

2012430__

1944 county in which the rental property is located.

1945 ~~(i) The delivery of any aircraft or boat of a class or type~~
1946 ~~which is required to be registered, licensed, titled, or~~
1947 ~~documented in this state or by the United States Government is~~
1948 ~~to a location in the county. However, this paragraph does not~~
1949 ~~apply to the use or consumption of items upon which a like tax~~
1950 ~~of equal or greater amount has been lawfully imposed and paid~~
1951 ~~outside the county.~~

1952 (m) ~~(j)~~ A transaction occurs in a county imposing the surtax
1953 if the dealer owing a use tax on purchases or leases is located
1954 in that the county.

1955 ~~(k) The delivery of tangible personal property other than~~
1956 ~~that described in paragraph (d), paragraph (e), or paragraph (f)~~
1957 ~~is made to a location outside the county, but the property is~~
1958 ~~brought into the county within 6 months after delivery, in which~~
1959 ~~event, the owner must pay the surtax as a use tax.~~

1960 (n) ~~(l)~~ The coin-operated amusement or vending machine is
1961 located in the county.

1962 (o) ~~(m)~~ An The florist taking the original order to sell
1963 tangible personal property taken by a florist occurs is located
1964 in the county in which the florist taking the order is located,
1965 notwithstanding any other provision of this section.

1966 (4) (a) The department shall administer, collect, and
1967 enforce the tax authorized under s. 212.055 pursuant to the same
1968 procedures used in the administration, collection, and
1969 enforcement of the general state sales tax imposed under the
1970 provisions of this chapter, except as provided in this section.
1971 The provisions of this chapter regarding interest and penalties
1972 on delinquent taxes shall apply to the surtax. Discretionary

7-00085-12

2012430__

1973 sales surtaxes shall not be included in the computation of
1974 estimated taxes pursuant to s. 212.11. Notwithstanding any other
1975 provision of law, a dealer need not separately state the amount
1976 of the surtax on the charge ticket, sales slip, invoice, or
1977 other tangible evidence of sale. For the purposes of this
1978 section and s. 212.055, the "proceeds" of any surtax means all
1979 funds collected and received by the department pursuant to a
1980 specific authorization and levy under s. 212.055, including any
1981 interest and penalties on delinquent surtaxes.

1982 (b) The proceeds of a discretionary sales surtax collected
1983 by the selling dealer located in a county imposing the surtax
1984 shall be returned, less the cost of administration, to the
1985 county where the selling dealer is located. The proceeds shall
1986 be transferred to the Discretionary Sales Surtax Clearing Trust
1987 Fund. A separate account shall be established in the trust fund
1988 for each county imposing a discretionary surtax. The amount
1989 deducted for the costs of administration may not exceed 3
1990 percent of the total revenue generated for all counties levying
1991 a surtax authorized in s. 212.055. The amount deducted for the
1992 costs of administration may be used only for costs that are
1993 solely and directly attributable to the surtax. The total cost
1994 of administration shall be prorated among those counties levying
1995 the surtax on the basis of the amount collected for a particular
1996 county to the total amount collected for all counties. The
1997 department shall distribute the moneys in the trust fund to the
1998 appropriate counties each month, unless otherwise provided in s.
1999 212.055.

2000 (c)1. Any dealer located in a county that does not impose a
2001 discretionary sales surtax but who collects the surtax due to

7-00085-12

2012430__

2002 sales of tangible personal property or services delivered
2003 outside the county shall remit monthly the proceeds of the
2004 surtax to the department to be deposited into an account in the
2005 Discretionary Sales Surtax Clearing Trust Fund which is separate
2006 from the county surtax collection accounts. The department shall
2007 distribute funds in this account using a distribution factor
2008 determined for each county that levies a surtax and multiplied
2009 by the amount of funds in the account and available for
2010 distribution. The distribution factor for each county equals the
2011 product of:

2012 a. The county's latest official population determined
2013 pursuant to s. 186.901;

2014 b. The county's rate of surtax; and

2015 c. The number of months the county has levied a surtax
2016 during the most recent distribution period;

2017
2018 divided by the sum of all such products of the counties levying
2019 the surtax during the most recent distribution period.

2020 2. The department shall compute distribution factors for
2021 eligible counties once each quarter and make appropriate
2022 quarterly distributions.

2023 3. A county that fails to timely provide the information
2024 required by this section to the department authorizes the
2025 department, by such action, to use the best information
2026 available to it in distributing surtax revenues to the county.
2027 If this information is unavailable to the department, the
2028 department may partially or entirely disqualify the county from
2029 receiving surtax revenues under this paragraph. A county that
2030 fails to provide timely information waives its right to

7-00085-12

2012430

2031 challenge the department's determination of the county's share,
 2032 if any, of revenues provided under this paragraph.

2033 ~~(5) No discretionary sales surtax or increase or decrease~~
 2034 ~~in the rate of any discretionary sales surtax shall take effect~~
 2035 ~~on a date other than January 1. No discretionary sales surtax~~
 2036 ~~shall terminate on a day other than December 31.~~

2037 (5)~~(6)~~ The governing body of any county levying a
 2038 discretionary sales surtax shall enact an ordinance levying the
 2039 surtax in accordance with the procedures described in s.
 2040 125.66(2).

2041 (6)~~(7)~~(a) Any adoption, repeal, or rate change of the
 2042 surtax by the governing body of any county levying a
 2043 discretionary sales surtax or the school board of any county
 2044 levying the school capital outlay surtax authorized by s.
 2045 212.055(6) is effective on April 1. A county or school board
 2046 adopting, repealing, or changing the rate of such surtax shall
 2047 notify the department within 10 days after final adoption by
 2048 ordinance or referendum of an adoption, repeal, imposition,
 2049 termination, or rate change of the surtax, but no later than
 2050 October 20 immediately preceding the April 1 ~~November 16~~ ~~prior~~
 2051 ~~to the~~ effective date. The notice must specify the time period
 2052 during which the surtax will be in effect and the rate and must
 2053 include a copy of the ordinance and such other information as
 2054 the department requires by rule. Failure to timely provide such
 2055 notification to the department shall result in the delay of the
 2056 effective date for a period of 1 year.

2057 (b) In addition to the notification required by paragraph
 2058 (a), the governing body of any county proposing to levy a
 2059 discretionary sales surtax or the school board of any county

7-00085-12

2012430__

2060 proposing to levy the school capital outlay surtax authorized by
2061 s. 212.055(6) shall notify the department by October 1 if the
2062 referendum or consideration of the ordinance that would result
2063 in imposition, termination, or rate change of the surtax is
2064 scheduled to occur on or after October 1 of that year. Failure
2065 to timely provide such notification to the department shall
2066 result in the delay of the effective date for a period of 1
2067 year.

2068 (c) The department shall provide notice of the adoption,
2069 repeal, or rate change of the surtax to affected dealers by
2070 February 1 immediately preceding the April 1 effective date.

2071 (d) Notwithstanding the date set in an ordinance for the
2072 termination of a surtax, a surtax terminates only on March 31. A
2073 surtax imposed before January 1, 2013, for which an ordinance
2074 provides a different termination date, also terminates on the
2075 March 31 following the termination date established in the
2076 ordinance.

2077 (7)~~(8)~~ With respect to any motor vehicle or mobile home of
2078 a class or type that ~~which~~ is required to be registered in this
2079 state, the tax due on a transaction occurring in the taxing
2080 county as herein provided shall be collected from the purchaser
2081 or user incident to the titling and registration of such
2082 property, irrespective of whether such titling or registration
2083 occurs in the taxing county.

2084 (8) The department may certify vendor databases and
2085 purchase, or otherwise make available, a database, or databases,
2086 singly or in combination, which describe boundaries and boundary
2087 changes for all taxing jurisdictions, including a description
2088 and the effective date of a boundary change; provide all sales

7-00085-12

2012430__

2089 and use tax rates by jurisdiction; if the area includes more
2090 than one tax rate in any level of taxing jurisdiction, assign to
2091 each five-digit and nine-digit zip code the proper rate and
2092 jurisdiction and apply the lowest combined rate imposed in the
2093 zip code area; and may include address-based boundary database
2094 records for assigning taxing jurisdictions and associated tax
2095 rates.

2096 (a) A dealer or certified service provider that collects
2097 and remits the state tax and any local tax imposed by this
2098 chapter shall be held harmless from any tax, interest, and
2099 penalties due solely as a result of relying on erroneous data on
2100 tax rates, boundaries, or taxing jurisdiction assignments
2101 provided by the state if the dealer or certified service
2102 provider exercises due diligence in applying one or more of the
2103 following methods to determine the taxing jurisdiction and tax
2104 rate for a transaction:

2105 1. Employing an electronic database provided by the
2106 department under this subsection; or

2107 2. Employing a state-certified database.

2108 (b) If a dealer or certified service provider is unable to
2109 determine the applicable rate and jurisdiction using an address-
2110 based database record after exercising due diligence, the dealer
2111 or certified service provider may apply the nine-digit zip code
2112 designation applicable to a purchaser.

2113 (c) If a nine-digit zip code designation is not available
2114 for a street address or if a dealer or certified service
2115 provider is unable to determine the nine-digit zip code
2116 designation applicable to a purchase after exercising due
2117 diligence to determine the designation, the dealer or certified

7-00085-12

2012430

2118 service provider may apply the rate for the five-digit zip code
2119 area.

2120 (d) There is a rebuttable presumption that a dealer or
2121 certified service provider has exercised due diligence if the
2122 dealer or certified service provider has attempted to determine
2123 the tax rate and jurisdiction by using state-certified software
2124 that makes this assignment from the address and zip code
2125 information applicable to the purchase.

2126 (e) There is a rebuttable presumption that a dealer or
2127 certified service provider has exercised due diligence if the
2128 dealer has attempted to determine the nine-digit zip code
2129 designation by using state-certified software that makes this
2130 designation from the street address and the five-digit zip code
2131 applicable to a purchase.

2132 (f) If a dealer or certified service provider does not use
2133 one of the methods specified in paragraph (a), the dealer or
2134 certified service provider may be held liable to the department
2135 for tax, interest, and penalties that are due for charging and
2136 collecting the incorrect amount of tax.

2137 (9) A purchaser shall be held harmless from tax, interest,
2138 and penalties for failing to pay the correct amount of sales or
2139 use tax due solely as a result of any of the following
2140 circumstances:

2141 (a) The dealer or certified service provider relied on
2142 erroneous data on tax rates, boundaries, or taxing jurisdiction
2143 assignments provided by the department;

2144 (b) A purchaser holding a direct-pay permit relied on
2145 erroneous data on tax rates, boundaries, or taxing jurisdiction
2146 assignments provided by the department; or

7-00085-12

2012430

2147 (c) A purchaser relied on erroneous data supplied in a
2148 database described in paragraph (a).

2149 (10) A dealer is not liable for failing to collect tax at
2150 the new tax rate if:

2151 (a) The new rate takes effect within 30 days after the new
2152 rate is enacted;

2153 (b) The dealer collected the tax at the preceding rate;

2154 (c) The dealer's failure to collect the tax at the new rate
2155 does not extend beyond 30 days after the enactment of the new
2156 rate; and

2157 (d) The dealer did not fraudulently fail to collect at the
2158 new rate or solicit purchasers based on the preceding rate.

2159 Section 10. Paragraphs (i) and (j) of subsection (8) of
2160 section 212.055, Florida Statutes, are amended to read:

2161 212.055 Discretionary sales surtaxes; legislative intent;
2162 authorization and use of proceeds.—It is the legislative intent
2163 that any authorization for imposition of a discretionary sales
2164 surtax shall be published in the Florida Statutes as a
2165 subsection of this section, irrespective of the duration of the
2166 levy. Each enactment shall specify the types of counties
2167 authorized to levy; the rate or rates which may be imposed; the
2168 maximum length of time the surtax may be imposed, if any; the
2169 procedure which must be followed to secure voter approval, if
2170 required; the purpose for which the proceeds may be expended;
2171 and such other requirements as the Legislature may provide.
2172 Taxable transactions and administrative procedures shall be as
2173 provided in s. 212.054.

2174 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

2175 ~~(i) Surtax collections shall be initiated on January 1 of~~

7-00085-12

2012430__

2176 ~~the year following a successful referendum in order to coincide~~
2177 ~~with s. 212.054(5).~~

2178 (i)~~(j)~~ Notwithstanding s. 212.054, if a multicounty
2179 independent special district created pursuant to chapter 67-764,
2180 Laws of Florida, levies ad valorem taxes on district property to
2181 fund emergency fire rescue services within the district and is
2182 required by s. 2, Art. VII of the State Constitution to maintain
2183 a uniform ad valorem tax rate throughout the district, the
2184 county may not levy the discretionary sales surtax authorized by
2185 this subsection within the boundaries of the district.

2186 Section 11. Paragraph (c) of subsection (2) and subsections
2187 (3) and (5) of section 212.06, Florida Statutes, are amended to
2188 read:

2189 212.06 Sales, storage, use tax; collectible from dealers;
2190 "dealer" defined; dealers to collect from purchasers;
2191 legislative intent as to scope of tax.—

2192 (2)

2193 (c) The term "dealer" is further defined to mean every
2194 person, as used in this chapter, who sells at retail or who
2195 offers for sale at retail, or who has in his or her possession
2196 for sale at retail; or for use, consumption, or distribution; or
2197 for storage to be used or consumed in this state, tangible
2198 personal property as defined herein,~~including a retailer who~~
2199 ~~transacts a mail order sale.~~

2200 (3) (a) Except as provided in paragraph (b), every dealer
2201 making sales, whether within or outside the state, of tangible
2202 personal property for distribution, storage, or use or other
2203 consumption, in this state, shall, at the time of making sales,
2204 collect the tax imposed by this chapter from the purchaser.

7-00085-12

2012430__

2205 (b)1. The following provisions apply to sales of
2206 advertising and promotional direct mail:

2207 a. A purchaser of advertising and promotional direct mail
2208 may provide the seller with:

2209 (I) A direct pay permit;

2210 (II) A certificate of exemption claiming direct mail; or

2211 (III) Information showing the jurisdictions to which the
2212 advertising and promotional direct mail is to be delivered to
2213 recipients.

2214 b. If the purchaser provides the permit or certificate
2215 referred to in sub-sub-subparagraph a.(I) or sub-sub-
2216 subparagraph a.(II), the seller, in the absence of bad faith, is
2217 relieved of all obligations to collect, pay, or remit any tax on
2218 any transaction involving advertising and promotional direct
2219 mail to which the permit, certificate, or statement applies. The
2220 purchaser shall source the sale to the jurisdictions to which
2221 the advertising and promotional direct mail is to be delivered
2222 to the recipients and shall report and pay any applicable tax
2223 due.

2224 c. If the purchaser provides the seller information showing
2225 the jurisdictions to which the advertising and promotional
2226 direct mail is to be delivered to recipients, the seller shall
2227 source the sale to the jurisdictions to which the advertising
2228 and promotional direct mail is to be delivered and shall collect
2229 and remit the applicable tax. In the absence of bad faith, the
2230 seller is relieved of any further obligation to collect any
2231 additional tax on the sale of advertising and promotional direct
2232 mail if the seller has sourced the sale according to the
2233 delivery information provided by the purchaser.

7-00085-12

2012430__

2234 d. If the purchaser does not provide the seller with any of
2235 the items listed in sub-sub-subparagraph a.(I), sub-sub-
2236 subparagraph a.(II), or sub-sub-subparagraph a.(III), the sale
2237 shall be sourced to the address from which the advertising and
2238 promotional direct mail was shipped. The state to which the
2239 advertising and promotional direct mail is delivered may
2240 disallow credit for tax paid on sales sourced pursuant to this
2241 subparagraph.

2242 2. The following provisions apply to sales of other direct
2243 mail.

2244 a. Except as otherwise provided in this subparagraph, sales
2245 of other direct mail are sourced to the location indicated by an
2246 address for the purchaser which is available from the business
2247 records of the seller which are maintained in the ordinary
2248 course of the seller's business if use of this address does not
2249 constitute bad faith.

2250 b. A purchaser of other direct mail may provide the seller
2251 with:

2252 (I) A direct pay permit; or

2253 (II) A certificate of exemption claiming direct mail.

2254 c. If the purchaser provides the permit or certificate
2255 referred to in sub-sub-subparagraph b.(I) or sub-sub-
2256 subparagraph b.(II), the seller, in the absence of bad faith, is
2257 relieved of all obligations to collect, pay, or remit any tax on
2258 any transaction involving other direct mail to which the permit,
2259 certificate, or statement applies. Notwithstanding sub-
2260 subparagraph a., the sale shall be sourced to the jurisdictions
2261 to which the other direct mail is to be delivered to the
2262 recipients and the purchaser shall report and pay applicable tax

7-00085-12

2012430

2263 due.

2264 3. As used in this paragraph, the term:

2265 a. "Advertising and promotional direct mail" means printed
2266 material that meets the definition of direct mail in s. 212.02
2267 and has the primary purpose of attracting public attention to a
2268 product, person, business, or organization, or to attempt to
2269 sell, popularize, or secure financial support for a product,
2270 person, business, or organization. As used in this sub-
2271 subparagraph, the word "product" means tangible personal
2272 property, a product transferred electronically, or a service.

2273 b. "Other direct mail" means any direct mail that is not
2274 advertising and promotional direct mail, regardless of whether
2275 advertising and promotional direct mail is included in the same
2276 mailing. The term includes, but is not limited to:

2277 (I) Transactional direct mail that contains personal
2278 information specific to the addressee, including, but not
2279 limited to, invoices, bills, statements of account, and payroll
2280 advices;

2281 (II) Legally required mailings, including, but not limited
2282 to, privacy notices, tax reports, and stockholder reports; or

2283 (III) Other nonpromotional direct mail delivered to
2284 existing or former shareholders, customers, employees, or agents
2285 including, but not limited to, newsletters and informational
2286 pieces.

2287
2288 The term "other direct mail" does not include the development of
2289 billing information or the provision of any nonincidental data
2290 processing service.

2291 4.a.(I) This section applies to a sale of services only if

7-00085-12

2012430__

2292 the service is an integral part of the production and
2293 distribution of printed material that meets the definition of
2294 direct mail.

2295 (II) This section does not apply to any transaction that
2296 includes the development of billing information or the provision
2297 of any data processing service that is more than incidental
2298 regardless of whether advertising and promotional direct mail is
2299 included in the same mailing.

2300 b. If a transaction is a bundled transaction that includes
2301 advertising and promotional direct mail, this section applies
2302 only if the primary purpose of the transaction is the sale of
2303 products or services that meet the definition of advertising and
2304 promotional direct mail.

2305 c. This section does not limit any purchaser's:

2306 (I) Obligation for sales or use tax to any state to which
2307 the direct mail is delivered;

2308 (II) Right under local, state, federal, or constitutional
2309 law to a credit for sales or use taxes legally due and paid to
2310 other jurisdictions; or

2311 (III) Right to a refund of sales or use taxes overpaid to
2312 any jurisdiction.

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

7-00085-12

2012430__

2321 ~~for mailing to persons other than the purchaser located within~~
2322 ~~and outside this state. Printers of materials delivered by mail~~
2323 ~~to persons other than the purchaser located within and outside~~
2324 ~~this state shall have no obligation or responsibility for the~~
2325 ~~payment or collection of any taxes imposed under this chapter on~~
2326 ~~those materials. However, printers are obligated to collect the~~
2327 ~~taxes imposed by this chapter on printed materials when all, or~~
2328 ~~substantially all, of the materials will be mailed to persons~~
2329 ~~located within this state. For purposes of the printer's tax~~
2330 ~~collection obligation, there is a rebuttable presumption that~~
2331 ~~all materials printed at a facility are mailed to persons~~
2332 ~~located within the same state as that in which the facility is~~
2333 ~~located. A certificate provided by the purchaser to the printer~~
2334 ~~concerning the delivery of the printed materials for that~~
2335 ~~purchase or all purchases shall be sufficient for purposes of~~
2336 ~~rebutting the presumption created herein.~~

2337 5.2. The Department of Revenue is authorized to adopt rules
2338 and forms to administer ~~implement~~ the provisions of this
2339 paragraph.

2340 (5) (a) 1. ~~Except as provided in subparagraph 2., It is not~~
2341 ~~the intention of This chapter~~ does not ~~to~~ levy a tax upon
2342 tangible personal property imported, produced, or manufactured
2343 in this state for export if, ~~provided that tangible personal~~
2344 ~~property may not be considered as being imported, produced, or~~
2345 ~~manufactured for export unless the importer, producer, or~~
2346 ~~manufacturer:~~

2347 a. Delivers the tangible personal property ~~same~~ to a
2348 licensed exporter for exporting or to a common carrier for
2349 shipment outside the state or mails the same by United States

7-00085-12

2012430__

2350 mail to a destination outside the state; ~~or, in the case of~~
2351 ~~aircraft being exported under their own power to a destination~~
2352 ~~outside the continental limits of the United States, by~~
2353 ~~submission~~

2354 b. Submits to the department ~~of~~ a duly signed and validated
2355 United States customs declaration, ~~showing the departure of an~~
2356 ~~the~~ aircraft from the continental United States and; ~~and further~~
2357 ~~with respect to aircraft,~~ the canceled United States registry of
2358 the said aircraft if the aircraft is exported under its own
2359 power to a destination outside the continental United States; or
2360 ~~in the case of~~

2361 c. Submits documentation as required by rule to the
2362 department showing the departure of an aircraft of foreign
2363 registry from the continental United States on which parts and
2364 equipment have been installed. ~~on aircraft of foreign registry,~~
2365 ~~by submission to the department of documentation, the extent of~~
2366 ~~which shall be provided by rule, showing the departure of the~~
2367 ~~aircraft from the continental United States; nor is it the~~
2368 ~~intention of this chapter to levy a tax on any sale which~~

2369 2. This chapter does not levy a tax on the sale or use of
2370 tangible personal property that the state is prohibited from
2371 taxing under the Constitution or laws of the United States.

2372
2373 Every retail sale made to a person physically present at the
2374 time of sale shall be presumed to have been delivered in this
2375 state.

2376 ~~2.a. Notwithstanding subparagraph 1., a tax is levied on~~
2377 ~~each sale of tangible personal property to be transported to a~~
2378 ~~cooperating state as defined in sub-subparagraph c., at the rate~~

7-00085-12

2012430

2379 ~~specified in sub-subparagraph d. However, a Florida dealer will~~
2380 ~~be relieved from the requirements of collecting taxes pursuant~~
2381 ~~to this subparagraph if the Florida dealer obtains from the~~
2382 ~~purchaser an affidavit setting forth the purchaser's name,~~
2383 ~~address, state taxpayer identification number, and a statement~~
2384 ~~that the purchaser is aware of his or her state's use tax laws,~~
2385 ~~is a registered dealer in Florida or another state, or is~~
2386 ~~purchasing the tangible personal property for resale or is~~
2387 ~~otherwise not required to pay the tax on the transaction. The~~
2388 ~~department may, by rule, provide a form to be used for the~~
2389 ~~purposes set forth herein.~~

2390 ~~b. For purposes of this subparagraph, "a cooperating state"~~
2391 ~~is one determined by the executive director of the department to~~
2392 ~~cooperate satisfactorily with this state in collecting taxes on~~
2393 ~~mail order sales. No state shall be so determined unless it~~
2394 ~~meets all the following minimum requirements:~~

2395 ~~(I) It levies and collects taxes on mail order sales of~~
2396 ~~property transported from that state to persons in this state,~~
2397 ~~as described in s. 212.0596, upon request of the department.~~

2398 ~~(II) The tax so collected shall be at the rate specified in~~
2399 ~~s. 212.05, not including any local option or tourist or~~
2400 ~~convention development taxes collected pursuant to s. 125.0104~~
2401 ~~or this chapter.~~

2402 ~~(III) Such state agrees to remit to the department all~~
2403 ~~taxes so collected no later than 30 days from the last day of~~
2404 ~~the calendar quarter following their collection.~~

2405 ~~(IV) Such state authorizes the department to audit dealers~~
2406 ~~within its jurisdiction who make mail order sales that are the~~
2407 ~~subject of s. 212.0596, or makes arrangements deemed adequate by~~

7-00085-12

2012430

2408 ~~the department for auditing them with its own personnel.~~

2409 ~~(V) Such state agrees to provide to the department records~~
2410 ~~obtained by it from retailers or dealers in such state showing~~
2411 ~~delivery of tangible personal property into this state upon~~
2412 ~~which no sales or use tax has been paid in a manner similar to~~
2413 ~~that provided in sub-subparagraph g.~~

2414 ~~e. For purposes of this subparagraph, "sales of tangible~~
2415 ~~personal property to be transported to a cooperating state"~~
2416 ~~means mail order sales to a person who is in the cooperating~~
2417 ~~state at the time the order is executed, from a dealer who~~
2418 ~~receives that order in this state.~~

2419 ~~d. The tax levied by sub-subparagraph a. shall be at the~~
2420 ~~rate at which such a sale would have been taxed pursuant to the~~
2421 ~~cooperating state's tax laws if consummated in the cooperating~~
2422 ~~state by a dealer and a purchaser, both of whom were physically~~
2423 ~~present in that state at the time of the sale.~~

2424 ~~e. The tax levied by sub-subparagraph a., when collected,~~
2425 ~~shall be held in the State Treasury in trust for the benefit of~~
2426 ~~the cooperating state and shall be paid to it at a time agreed~~
2427 ~~upon between the department, acting for this state, and the~~
2428 ~~cooperating state or the department or agency designated by it~~
2429 ~~to act for it; however, such payment shall in no event be made~~
2430 ~~later than 30 days from the last day of the calendar quarter~~
2431 ~~after the tax was collected. Funds held in trust for the benefit~~
2432 ~~of a cooperating state shall not be subject to the service~~
2433 ~~charges imposed by s. 215.20.~~

2434 ~~f. The department is authorized to perform such acts and to~~
2435 ~~provide such cooperation to a cooperating state with reference~~
2436 ~~to the tax levied by sub-subparagraph a. as is required of the~~

7-00085-12

2012430__

2437 ~~cooperating state by sub-subparagraph b.~~

2438 ~~g. In furtherance of this act, dealers selling tangible~~
2439 ~~personal property for delivery in another state shall make~~
2440 ~~available to the department, upon request of the department,~~
2441 ~~records of all tangible personal property so sold. Such records~~
2442 ~~shall include a description of the property, the name and~~
2443 ~~address of the purchaser, the name and address of the person to~~
2444 ~~whom the property was sent, the purchase price of the property,~~
2445 ~~information regarding whether sales tax was paid in this state~~
2446 ~~on the purchase price, and such other information as the~~
2447 ~~department may by rule prescribe.~~

2448 (b)1. Notwithstanding the provisions of paragraph (a), it
2449 is not the intention of this chapter to levy a tax on the sale
2450 of tangible personal property to a nonresident dealer who does
2451 not hold a Florida sales tax registration, provided such
2452 nonresident dealer furnishes the seller a statement declaring
2453 that the tangible personal property will be transported outside
2454 this state by the nonresident dealer for resale and for no other
2455 purpose. The statement shall include, but not be limited to, the
2456 nonresident dealer's name, address, applicable passport or visa
2457 number, arrival-departure card number, and evidence of authority
2458 to do business in the nonresident dealer's home state or
2459 country, such as his or her business name and address,
2460 occupational license number, if applicable, or any other
2461 suitable requirement. The statement shall be signed by the
2462 nonresident dealer and shall include the following sentence:
2463 "Under penalties of perjury, I declare that I have read the
2464 foregoing, and the facts alleged are true to the best of my
2465 knowledge and belief."

7-00085-12

2012430__

2466 2. The burden of proof of subparagraph 1. rests with the
2467 seller, who must retain the proper documentation to support the
2468 exempt sale. The exempt transaction is subject to verification
2469 by the department.

2470 (c) Notwithstanding the provisions of paragraph (a), it is
2471 not the intention of this chapter to levy a tax on the sale by a
2472 printer to a nonresident print purchaser of material printed by
2473 that printer for that nonresident print purchaser when the print
2474 purchaser does not furnish the printer a resale certificate
2475 containing a sales tax registration number but does furnish to
2476 the printer a statement declaring that such material will be
2477 resold by the nonresident print purchaser.

2478 Section 12. Paragraph (c) of subsection (1) and subsection
2479 (2) of section 212.07, Florida Statutes, are amended, and
2480 subsection (10) is added to that section, to read:

2481 212.07 Sales, storage, use tax; tax added to purchase
2482 price; dealer not to absorb; liability of purchasers who cannot
2483 prove payment of the tax; penalties; general exemptions.—

2484 (1)

2485 (c) Unless the purchaser of tangible personal property that
2486 is incorporated into tangible personal property manufactured,
2487 produced, compounded, processed, or fabricated for one's own use
2488 and subject to the tax imposed under s. 212.06(1)(b) or is
2489 purchased for export under s. 212.06(5)(a) ~~s. 212.06(5)(a)1.~~
2490 extends a certificate in compliance with the rules of the
2491 department, the dealer shall himself or herself be liable for
2492 and pay the tax.

2493 (2) A dealer shall, as far as practicable, add the amount
2494 of the tax imposed under this chapter to the sale price, and the

7-00085-12

2012430

2495 amount of the tax shall be separately stated as Florida tax on
2496 any charge ticket, sales slip, invoice, or other tangible
2497 evidence of sale. Such tax constitutes ~~shall constitute~~ a part
2498 of the ~~such~~ price, charge, or proof of sale and is ~~which shall~~
2499 ~~be~~ a debt from the purchaser or consumer to the dealer, until
2500 paid. This debt is, ~~and shall be~~ recoverable at law in the same
2501 manner as other debts. If ~~Where~~ it is impracticable, due to the
2502 nature of the business practices within an industry, to
2503 separately state Florida tax on any charge ticket, sales slip,
2504 invoice, or other tangible evidence of sale, the department may
2505 establish by rule a remittance ~~an effective~~ tax rate for such
2506 industry. The department may also amend this ~~effective tax~~ rate
2507 as the industry's pricing or practices change. In addition to
2508 other methods, the department may use telephone, electronic
2509 mail, facsimile, or other electronic means to provide notice of
2510 such rate and any change. Except as otherwise specifically
2511 provided, any dealer who neglects, fails, or refuses to collect
2512 the tax herein provided upon a ~~any, every, and all~~ retail sale
2513 of tangible personal property ~~sales~~ made by the dealer or the
2514 dealer's agent ~~agents~~ or employee ~~is employees~~ of tangible
2515 ~~personal property or services which are subject to the tax~~
2516 ~~imposed by this chapter shall be~~ liable for and shall pay the
2517 tax himself or herself.

2518 (10) (a) The executive director is authorized to maintain
2519 and publish a taxability matrix in a downloadable format.

2520 (b) The state shall provide notice of changes to the
2521 taxability of the products or services listed in the taxability
2522 matrix. In addition to other methods, the department may use
2523 telephone, electronic mail, facsimile, or other electronic means

7-00085-12

2012430__

2524 to provide notice of such changes.

2525 (c) A dealer or certified service provider who collects and
2526 remits the state and local tax imposed by this chapter shall be
2527 held harmless from tax, interest, and penalties for having
2528 charged and collected the incorrect amount of sales or use tax
2529 due solely as a result of relying on erroneous data provided by
2530 the state in the taxability matrix.

2531 (d) A purchaser shall be held harmless from penalties for
2532 having failed to pay the correct amount of sales or use tax due
2533 solely as a result of any of the following circumstances:

2534 1. The dealer or certified service provider relied on
2535 erroneous data provided by the state in the taxability matrix
2536 completed by the state;

2537 2. A purchaser relied on erroneous data provided by the
2538 state in the taxability matrix completed by the state; or

2539 3. A purchaser holding a direct-pay permit relied on
2540 erroneous data provided by the state in the taxability matrix
2541 completed by the state.

2542 (e) A purchaser shall be held harmless from tax and
2543 interest for having failed to pay the correct amount of sales or
2544 use tax due solely as a result of the state's erroneous
2545 classification in the taxability matrix of terms included in the
2546 library of definitions as "taxable" or "exempt," "included in
2547 sales price" or "excluded from sales price," or "included in the
2548 definition" or "excluded from the definition."

2549 Section 13. Subsections (1) and (2), paragraph (g) of
2550 subsection (5), subsection (14), and paragraphs (b) and (c) of
2551 subsection (17) of section 212.08, Florida Statutes, are amended
2552 to read:

7-00085-12

2012430__

2553 212.08 Sales, rental, use, consumption, distribution, and
2554 storage tax; specified exemptions.—The sale at retail, the
2555 rental, the use, the consumption, the distribution, and the
2556 storage to be used or consumed in this state of the following
2557 are hereby specifically exempt from the tax imposed by this
2558 chapter.

2559 (1) EXEMPTIONS; GENERAL GROCERIES.—

2560 (a) Food and food ingredients products for human
2561 consumption are exempt from the tax imposed by this chapter.

2562 (b) For the purpose of this chapter, as used in this
2563 subsection, the term "food and food ingredients products" means
2564 substances, whether in liquid, concentrated, solid, frozen,
2565 dried, or dehydrated form, which are sold for ingestion or
2566 chewing by humans and are consumed for their taste or
2567 nutritional value ~~edible commodities, whether processed, cooked,~~
2568 ~~raw, canned, or in any other form, which are generally regarded~~
2569 ~~as food.~~ This includes, but is not limited to, all of the
2570 following:

2571 1. ~~Cereals and cereal products, baked goods, oleomargarine,~~
2572 ~~meat and meat products, fish and seafood products, frozen foods~~
2573 ~~and dinners, poultry, eggs and egg products, vegetables and~~
2574 ~~vegetable products, fruit and fruit products, spices, salt,~~
2575 ~~sugar and sugar products, milk and dairy products, and products~~
2576 ~~intended to be mixed with milk.~~

2577 2. ~~Natural fruit or vegetable juices or their concentrates~~
2578 ~~or reconstituted natural concentrated fruit or vegetable juices,~~
2579 ~~whether frozen or unfrozen, dehydrated, powdered, granulated,~~
2580 ~~sweetened or unsweetened, seasoned with salt or spice, or~~
2581 ~~unseasoned; coffee, coffee substitutes, or cocoa; and tea,~~

7-00085-12

2012430__

2582 ~~unless it is sold in a liquid form.~~

2583 ~~1.3.~~ Bakery products sold by bakeries, pastry shops, or
2584 like establishments, if sold without eating utensils. For
2585 purposes of this subparagraph, bakery products include bread,
2586 rolls, buns, biscuits, bagels, croissants, pastries, doughnuts,
2587 Danish pastries, cakes, tortes, pies, tarts, muffins, bars,
2588 cookies, and tortillas ~~that do not have eating facilities.~~

2589 2. Dietary supplements. The term "dietary supplements"
2590 means any nontobacco product intended to supplement the diet
2591 which contains one or more of the following dietary ingredients:
2592 a vitamin; a mineral; an herb or other botanical; an amino acid;
2593 a dietary substance for use by humans to supplement the diet by
2594 increasing the total dietary intake; or a concentrate,
2595 metabolite, constituent, extract, or combination of any
2596 ingredient described in this subparagraph which is intended for
2597 ingestion in tablet, capsule, powder, softgel, gelcap, or liquid
2598 form or, if not intended for ingestion in such a form, is not
2599 represented as conventional food and is not represented for use
2600 as a sole item of a meal or of the diet, and which is required
2601 to be labeled as a dietary supplement, identifiable by the
2602 supplemental facts panel found on the label and as required
2603 pursuant to 21 C.F.R. s. 101.36.

2604 3. Bottled water. As used in this subparagraph, the term
2605 "bottled water" means water that is placed in a safety-sealed
2606 container or package for human consumption. Bottled water is
2607 calorie free and does not contain sweeteners or other additives,
2608 except that it may contain:

2609 a. Antimicrobial agents;

2610 b. Fluoride;

7-00085-12

2012430__

- 2611 c. Carbonation;
- 2612 d. Vitamins, minerals, and electrolytes;
- 2613 e. Oxygen;
- 2614 f. Preservatives; and
- 2615 g. Only those flavors, extracts, or essences derived from a
- 2616 spice or fruit.

2617

2618 The term "bottled water" includes water that is delivered to the

2619 purchaser in a reusable container that is not sold with the

2620 water.

2621 (c) The exemption provided by this subsection does not

2622 apply to:

2623 ~~1. Food products sold as meals for consumption on or off~~

2624 ~~the premises of the dealer.~~

2625 ~~2. Food products furnished, prepared, or served for~~

2626 ~~consumption at tables, chairs, or counters or from trays,~~

2627 ~~glasses, dishes, or other tableware, whether provided by the~~

2628 ~~dealer or by a person with whom the dealer contracts to furnish,~~

2629 ~~prepare, or serve food products to others.~~

2630 ~~3. Food products ordinarily sold for immediate consumption~~

2631 ~~on the seller's premises or near a location at which parking~~

2632 ~~facilities are provided primarily for the use of patrons in~~

2633 ~~consuming the products purchased at the location, even though~~

2634 ~~such products are sold on a "take out" or "to go" order and are~~

2635 ~~actually packaged or wrapped and taken from the premises of the~~

2636 ~~dealer.~~

2637 ~~4. Sandwiches sold ready for immediate consumption on or~~

2638 ~~off the seller's premises.~~

2639 ~~5. Food products sold ready for immediate consumption~~

7-00085-12

2012430__

2640 ~~within a place, the entrance to which is subject to an admission~~
2641 ~~charge.~~

2642 1.6. Food and food ingredients sold as prepared food. The
2643 term "prepared food" means:

2644 a. Food sold in a heated state or heated by the dealer;

2645 b. Two or more food ingredients mixed or combined by the
2646 dealer for sale as a single item; or

2647 c. Food sold with eating utensils provided by the dealer,
2648 including plates, knives, forks, spoons, glasses, cups, napkins,
2649 or straws. A plate does not include a container or packaging
2650 used to transport food. Prepared food does not include food that
2651 is only cut, repackaged, or pasteurized by the dealer, eggs,
2652 fish, meat, poultry, and foods that contain these raw animal
2653 foods and require cooking by the consumer, as recommended by the
2654 Food and Drug Administration in chapter 3, part 4011 of its food
2655 code, to prevent food-borne illness. ~~Food products sold as hot~~
2656 ~~prepared food products.~~

2657 2.7. Soft drinks, including, but not limited to, any
2658 nonalcoholic beverage, any preparation or beverage commonly
2659 referred to as a "soft drink," or any noncarbonated drink made
2660 from milk derivatives or tea, if sold in cans or similar
2661 containers. The term "soft drinks" means nonalcoholic beverages
2662 that contain natural or artificial sweeteners. Soft drinks do
2663 not include beverages that contain milk or milk products, soy,
2664 rice, or similar milk substitutes, or greater than 50 percent of
2665 vegetable or fruit juice by volume.

2666 8. Ice cream, frozen yogurt, and similar frozen dairy or
2667 nondairy products in cones, small cups, or pints, popsicles,
2668 frozen fruit bars, or other novelty items, whether or not sold

7-00085-12

2012430__

2669 separately.

2670 ~~9. Food that is prepared, whether on or off the premises,~~
2671 ~~and sold for immediate consumption. This does not apply to food~~
2672 ~~prepared off the premises and sold in the original sealed~~
2673 ~~container, or the slicing of products into smaller portions.~~

2674 3.10. Food and food ingredients ~~products~~ sold through a
2675 vending machine, ~~pusheart, motor vehicle, or any other form of~~
2676 ~~vehicle.~~

2677 4.11. Candy ~~and any similar product regarded as candy or~~
2678 ~~confection, based on its normal use, as indicated on the label~~
2679 ~~or advertising thereof. The term "candy" means a preparation of~~
2680 sugar, honey, or other natural or artificial sweeteners in
2681 combination with chocolate, fruits, nuts, or other ingredients
2682 or flavorings in the form of bars, drops, or pieces. Candy does
2683 not include any preparation that contains flour and does not
2684 require refrigeration.

2685 5. Tobacco.

2686 ~~12. Bakery products sold by bakeries, pastry shops, or like~~
2687 ~~establishments having eating facilities, except when sold for~~
2688 ~~consumption off the seller's premises.~~

2689 ~~13. Food products served, prepared, or sold in or by~~
2690 ~~restaurants, lunch counters, cafeterias, hotels, taverns, or~~
2691 ~~other like places of business.~~

2692 ~~(d) As used in this subsection, the term:~~

2693 ~~1. "For consumption off the seller's premises" means that~~
2694 ~~the food or drink is intended by the customer to be consumed at~~
2695 ~~a place away from the dealer's premises.~~

2696 ~~2. "For consumption on the seller's premises" means that~~
2697 ~~the food or drink sold may be immediately consumed on the~~

7-00085-12

2012430__

2698 ~~premises where the dealer conducts his or her business. In~~
2699 ~~determining whether an item of food is sold for immediate~~
2700 ~~consumption, the customary consumption practices prevailing at~~
2701 ~~the selling facility shall be considered.~~

2702 ~~3. "Premises" shall be construed broadly, and means, but is~~
2703 ~~not limited to, the lobby, aisle, or auditorium of a theater;~~
2704 ~~the seating, aisle, or parking area of an arena, rink, or~~
2705 ~~stadium; or the parking area of a drive-in or outdoor theater.~~
2706 ~~The premises of a caterer with respect to catered meals or~~
2707 ~~beverages shall be the place where such meals or beverages are~~
2708 ~~served.~~

2709 ~~4. "Hot prepared food products" means those products,~~
2710 ~~items, or components which have been prepared for sale in a~~
2711 ~~heated condition and which are sold at any temperature that is~~
2712 ~~higher than the air temperature of the room or place where they~~
2713 ~~are sold. "Hot prepared food products," for the purposes of this~~
2714 ~~subsection, includes a combination of hot and cold food items or~~
2715 ~~components where a single price has been established for the~~
2716 ~~combination and the food products are sold in such combination,~~
2717 ~~such as a hot meal, a hot specialty dish or serving, or a hot~~
2718 ~~sandwich or hot pizza, including cold components or side items.~~

2719 ~~(d)-(e)~~1. Food or drinks not exempt under paragraphs (a),
2720 (b), and (c), ~~and (d)~~ are exempt, notwithstanding those
2721 paragraphs, when purchased with food coupons or Special
2722 Supplemental Food Program for Women, Infants, and Children
2723 vouchers issued under authority of federal law.

2724 2. This paragraph is effective only while federal law
2725 prohibits a state's participation in the federal food coupon
2726 program or Special Supplemental Food Program for Women, Infants,

7-00085-12

2012430__

2727 and Children if there is an official determination that state or
2728 local sales taxes are collected within that state on purchases
2729 of food or drinks with such coupons.

2730 3. This paragraph does ~~shall~~ not apply to any food or
2731 drinks on which federal law allows ~~shall permit~~ sales taxes
2732 without penalty, such as termination of the state's
2733 participation.

2734 (e) ~~(f)~~ The application of the tax on a package that
2735 contains exempt food products and taxable nonfood products
2736 depends upon the essential character of the complete package.

2737 1. If the taxable items represent more than 25 percent of
2738 the cost of the complete package and a single charge is made,
2739 the entire sales price of the package is taxable. If the taxable
2740 items are separately stated, the separate charge for the taxable
2741 items is subject to tax.

2742 2. If the taxable items represent 25 percent or less of the
2743 cost of the complete package and a single charge is made, the
2744 entire sales price of the package is exempt from tax. The person
2745 preparing the package is liable for the tax on the cost of the
2746 taxable items going into the complete package. If the taxable
2747 items are separately stated, the separate charge is subject to
2748 tax.

2749 (f) Dietary supplements that are sold as prepared food are
2750 not exempt.

2751 (2) EXEMPTIONS; MEDICAL.—

2752 (a) There shall be exempt from the tax imposed by this
2753 chapter:

2754 1. Drugs dispensed according to an individual prescription
2755 or prescriptions.

7-00085-12

2012430__

2756 2. Mobility-enhancing equipment or prosthetic devices any
2757 ~~medical products and supplies or medicine~~ dispensed according to
2758 an individual prescription or prescriptions or durable medical
2759 equipment. ~~written by a prescriber authorized by law to~~
2760 ~~prescribe medicinal drugs;~~

2761 3. Hypodermic needles. ~~hypodermic syringes;~~

2762 4. Chemical compounds and test kits used for the diagnosis
2763 or treatment of human disease, illness, or injury and intended
2764 for one-time use. ~~;~~

2765 5. Over-the-counter drugs ~~and common household remedies~~
2766 ~~recommended and generally sold for internal or external use in~~
2767 ~~the cure, mitigation, treatment, or prevention of illness or~~
2768 ~~disease in human beings, but not including~~ grooming and hygiene
2769 products.

2770 6. Band-aids, gauze, bandages, and adhesive tape.

2771 7. Funerals. ~~However,~~ tangible personal property used by
2772 funeral directors in their business is taxable. ~~cosmetics or~~
2773 ~~toilet articles, notwithstanding the presence of medicinal~~
2774 ~~ingredients therein, according to a list prescribed and approved~~
2775 ~~by the Department of Health, which list shall be certified to~~
2776 ~~the Department of Revenue from time to time and included in the~~
2777 ~~rules promulgated by the Department of Revenue. There shall also~~
2778 ~~be exempt from the tax imposed by this chapter artificial eyes~~
2779 ~~and limbs; orthopedic shoes; prescription eyeglasses and items~~
2780 ~~incidental thereto or which become a part thereof; dentures;~~
2781 ~~hearing aids; crutches; prosthetic and orthopedic appliances;~~
2782 ~~and funerals. In addition, any~~

2783 8. Items intended for one-time use which transfer essential
2784 optical characteristics to contact lenses. ~~shall be exempt from~~

7-00085-12

2012430__

2785 ~~the tax imposed by this chapter;~~ However, this exemption applies
2786 ~~shall apply only~~ after \$100,000 of the tax imposed by this
2787 chapter on such items has been paid in any calendar year by a
2788 taxpayer who claims the exemption in such year. ~~Funeral~~
2789 ~~directors shall pay tax on all tangible personal property used~~
2790 ~~by them in their business.~~

2791 (b) For the purposes of this subsection, the term:

2792 1. "Drug" means a compound, substance, or preparation, and
2793 any component of a compound, substance, or preparation, other
2794 than food and food ingredients, dietary supplements, and
2795 alcoholic beverages, which is:

2796 a. Recognized in the official United States Pharmacopoeia,
2797 official Homeopathic Pharmacopoeia of the United States, or
2798 official National Formulary, or the supplement to any of them;

2799 b. Intended for use in the diagnosis, cure, mitigation,
2800 treatment, or prevention of disease; or

2801 c. Intended to affect the structure or any function of the
2802 body.

2803 2. "Durable medical equipment" means equipment, including
2804 repair and replacement parts to such equipment, but excluding
2805 mobility-enhancing equipment, which can withstand repeated use,
2806 is primarily and customarily used to serve a medical purpose,
2807 generally is not useful to a person in the absence of illness or
2808 injury, and is not worn on or in the body.

2809 3. "Mobility-enhancing equipment" means equipment,
2810 including repair and replacement parts to such equipment, but
2811 excluding durable medical equipment, which:

2812 a. Is primarily and customarily used to provide or increase
2813 the ability to move from one place to another and which is

7-00085-12

2012430__

2814 appropriate for use in a home or a motor vehicle.

2815 b. Is not generally used by persons with normal mobility.

2816 c. Does not include any motor vehicle or any equipment on a
2817 motor vehicle normally provided by a motor vehicle manufacturer.

2818 4. "Prosthetic device" means a replacement, corrective, or
2819 supportive device, including repair or replacement parts to such
2820 equipment, which is worn on or in the body to:

2821 a. Artificially replace a missing portion of the body;

2822 b. Prevent or correct physical deformity or malfunction; or

2823 c. Support a weak or deformed portion of the body.

2824 5. "Grooming and hygiene products" mean soaps and cleaning
2825 solutions, shampoo, toothpaste, mouthwash, antiperspirants, and
2826 suntan lotions and screens, regardless of whether the items meet
2827 the definition of an over-the-counter drug.

2828 6. "Over-the-counter drug" means a drug provided in
2829 packaging that contains a label that identifies the product as a
2830 drug as required by 21 C.F.R. s. 201.66. An over-the-counter
2831 drug label includes a drug-facts panel or a statement of the
2832 active ingredients and a list of the ingredients contained in
2833 the compound, substance, or preparation. "Prosthetic and

2834 orthopedic appliances" means any apparatus, instrument, device,

2835 or equipment used to replace or substitute for any missing part
2836 of the body, to alleviate the malfunction of any part of the

2837 body, or to assist any disabled person in leading a normal life
2838 by facilitating such person's mobility. Such apparatus,

2839 instrument, device, or equipment shall be exempted according to
2840 an individual prescription or prescriptions written by a

2841 physician licensed under chapter 458, chapter 459, chapter 460,

2842 chapter 461, or chapter 466, or according to a list prescribed

7-00085-12

2012430

2843 ~~and approved by the Department of Health, which list shall be~~
2844 ~~certified to the Department of Revenue from time to time and~~
2845 ~~included in the rules promulgated by the Department of Revenue.~~

2846 ~~2. "Cosmetics" means articles intended to be rubbed,~~
2847 ~~poured, sprinkled, or sprayed on, introduced into, or otherwise~~
2848 ~~applied to the human body for cleansing, beautifying, promoting~~
2849 ~~attractiveness, or altering the appearance and also means~~
2850 ~~articles intended for use as a compound of any such articles,~~
2851 ~~including, but not limited to, cold creams, suntan lotions,~~
2852 ~~makeup, and body lotions.~~

2853 ~~3. "Toilet articles" means any article advertised or held~~
2854 ~~out for sale for grooming purposes and those articles that are~~
2855 ~~customarily used for grooming purposes, regardless of the name~~
2856 ~~by which they may be known, including, but not limited to, soap,~~
2857 ~~toothpaste, hair spray, shaving products, colognes, perfumes,~~
2858 ~~shampoo, deodorant, and mouthwash.~~

2859 7.4. "Prescription" means an order, formula, or recipe
2860 issued in any form of oral, written, electronic, or other means
2861 of transmission by a practitioner licensed under chapter 458,
2862 chapter 459, chapter 460, chapter 461, chapter 466, or chapter
2863 474. The term includes an orally transmitted order by the
2864 lawfully designated agent of the practitioner. The term also
2865 includes an order written or transmitted by a practitioner
2866 licensed to practice in a jurisdiction other than this state,
2867 but only if the pharmacist called upon to dispense the order
2868 determines, in the exercise of his or her professional judgment,
2869 that the order is valid and necessary for the treatment of a
2870 chronic or recurrent illness. ~~includes any order for drugs or~~
2871 ~~medicinal supplies written or transmitted by any means of~~

7-00085-12

2012430__

2872 ~~communication by a duly licensed practitioner authorized by the~~
2873 ~~laws of the state to prescribe such drugs or medicinal supplies~~
2874 ~~and intended to be dispensed by a pharmacist. The term also~~
2875 ~~includes an orally transmitted order by the lawfully designated~~
2876 ~~agent of such practitioner. The term also includes an order~~
2877 ~~written or transmitted by a practitioner licensed to practice in~~
2878 ~~a jurisdiction other than this state, but only if the pharmacist~~
2879 ~~called upon to dispense such order determines, in the exercise~~
2880 ~~of his or her professional judgment, that the order is valid and~~
2881 ~~necessary for the treatment of a chronic or recurrent illness.~~
2882 ~~The term also includes a pharmacist's order for a product~~
2883 ~~selected from the formulary created pursuant to s. 465.186. A~~
2884 ~~prescription may be retained in written form, or the pharmacist~~
2885 ~~may cause it to be recorded in a data processing system,~~
2886 ~~provided that such order can be produced in printed form upon~~
2887 ~~lawful request.~~

2888 (c) Chlorine is shall not be exempt from the tax imposed by
2889 this chapter when used for the treatment of water in swimming
2890 pools.

2891 ~~(d) Lithotripters are exempt.~~

2892 (d)~~(e)~~ Human organs are exempt.

2893 ~~(f) Sales of drugs to or by physicians, dentists,~~
2894 ~~veterinarians, and hospitals in connection with medical~~
2895 ~~treatment are exempt.~~

2896 ~~(g) Medical products and supplies used in the cure,~~
2897 ~~mitigation, alleviation, prevention, or treatment of injury,~~
2898 ~~disease, or incapacity which are temporarily or permanently~~
2899 ~~incorporated into a patient or client by a practitioner of the~~
2900 ~~healing arts licensed in the state are exempt.~~

7-00085-12

2012430

2901 ~~(h) The purchase by a veterinarian of commonly recognized~~
 2902 ~~substances possessing curative or remedial properties which are~~
 2903 ~~ordered and dispensed as treatment for a diagnosed health~~
 2904 ~~disorder by or on the prescription of a duly licensed~~
 2905 ~~veterinarian, and which are applied to or consumed by animals~~
 2906 ~~for alleviation of pain or the cure or prevention of sickness,~~
 2907 ~~disease, or suffering are exempt. Also exempt are the purchase~~
 2908 ~~by a veterinarian of antiseptics, absorbent cotton, gauze for~~
 2909 ~~bandages, lotions, vitamins, and worm remedies.~~

2910 ~~(i) X-ray opaques, also known as opaque drugs and~~
 2911 ~~radiopaque, such as the various opaque dyes and barium sulphate,~~
 2912 ~~when used in connection with medical X rays for treatment of~~
 2913 ~~bodies of humans and animals, are exempt.~~

2914 (e)-(j) Parts, special attachments, special lettering, and
 2915 other like items that are added to or attached to tangible
 2916 personal property so that a handicapped person can use them are
 2917 exempt when such items are purchased by a person pursuant to an
 2918 individual prescription.

2919 (f)-(k) This subsection shall be strictly construed and
 2920 enforced.

2921 (5) EXEMPTIONS; ACCOUNT OF USE.—

2922 (g) *Building materials used in the rehabilitation of real*
 2923 *property located in an enterprise zone.—*

2924 1. Building materials used in the rehabilitation of real
 2925 property located in an enterprise zone are exempt from the tax
 2926 imposed by this chapter upon an affirmative showing to the
 2927 satisfaction of the department that the items have been used for
 2928 the rehabilitation of real property located in an enterprise
 2929 zone. Except as provided in subparagraph 2., this exemption

7-00085-12

2012430__

2930 inures to the owner, lessee, or lessor at the time the real
2931 property is rehabilitated, but only through a refund of
2932 previously paid taxes. To receive a refund pursuant to this
2933 paragraph, the owner, lessee, or lessor of the rehabilitated
2934 real property must file an application under oath with the
2935 governing body or enterprise zone development agency having
2936 jurisdiction over the enterprise zone where the business is
2937 located, as applicable. A single application for a refund may be
2938 submitted for multiple, contiguous parcels that were part of a
2939 single parcel that was divided as part of the rehabilitation of
2940 the property. All other requirements of this paragraph apply to
2941 each parcel on an individual basis. The application must
2942 include:

- 2943 a. The name and address of the person claiming the refund.
2944 b. An address and assessment roll parcel number of the
2945 rehabilitated real property for which a refund of previously
2946 paid taxes is being sought.
2947 c. A description of the improvements made to accomplish the
2948 rehabilitation of the real property.
2949 d. A copy of a valid building permit issued by the county
2950 or municipal building department for the rehabilitation of the
2951 real property.
2952 e. A sworn statement, under penalty of perjury, from the
2953 general contractor licensed in this state with whom the
2954 applicant contracted to make the improvements necessary to
2955 rehabilitate the real property, which lists the building
2956 materials used to rehabilitate the real property, the actual
2957 cost of the building materials, and the amount of sales tax paid
2958 in this state on the building materials. If a general contractor

7-00085-12

2012430__

2959 was not used, the applicant, not a general contractor, shall
2960 make the sworn statement required by this sub-subparagraph.
2961 Copies of the invoices which ~~that~~ evidence the purchase of the
2962 building materials used in the rehabilitation and the payment of
2963 sales tax on the building materials must be attached to the
2964 sworn statement provided by the general contractor or by the
2965 applicant. Unless the actual cost of building materials used in
2966 the rehabilitation of real property and the payment of sales
2967 taxes is documented by a general contractor or by the applicant
2968 in this manner, the cost of the building materials is deemed to
2969 be an amount equal to 40 percent of the increase in assessed
2970 value for ad valorem tax purposes.

2971 f. The identifying number assigned pursuant to s. 290.0065
2972 to the enterprise zone in which the rehabilitated real property
2973 is located.

2974 g. A certification by the local building code inspector
2975 that the improvements necessary to rehabilitate the real
2976 property are substantially completed.

2977 h. A statement of whether the business is a small business
2978 as defined by s. 288.703.

2979 i. If applicable, the name and address of each permanent
2980 employee of the business, including, for each employee who is a
2981 resident of an enterprise zone, the identifying number assigned
2982 pursuant to s. 290.0065 to the enterprise zone in which the
2983 employee resides.

2984 2. This exemption inures to a municipality, county, other
2985 governmental unit or agency, or nonprofit community-based
2986 organization through a refund of previously paid taxes if the
2987 building materials used in the rehabilitation are paid for from

7-00085-12

2012430__

2988 the funds of a community development block grant, State Housing
2989 Initiatives Partnership Program, or similar grant or loan
2990 program. To receive a refund, a municipality, county, other
2991 governmental unit or agency, or nonprofit community-based
2992 organization must file an application that includes the same
2993 information required in subparagraph 1. In addition, the
2994 application must include a sworn statement signed by the chief
2995 executive officer of the municipality, county, other
2996 governmental unit or agency, or nonprofit community-based
2997 organization seeking a refund which states that the building
2998 materials for which a refund is sought were funded by a
2999 community development block grant, State Housing Initiatives
3000 Partnership Program, or similar grant or loan program.

3001 3. Within 10 working days after receipt of an application,
3002 the governing body or enterprise zone development agency shall
3003 review the application to determine if it contains all the
3004 information required by subparagraph 1. or subparagraph 2. and
3005 meets the criteria set out in this paragraph. The governing body
3006 or agency shall certify all applications that contain the
3007 required information and are eligible to receive a refund. If
3008 applicable, the governing body or agency shall also certify if
3009 20 percent of the employees of the business that applies for the
3010 exemption are residents of an enterprise zone, excluding
3011 temporary and part-time employees. The certification must be in
3012 writing, and a copy of the certification shall be transmitted to
3013 the executive director of the department. The applicant is
3014 responsible for forwarding a certified application to the
3015 department within the time specified in subparagraph 4.

3016 4. An application for a refund must be submitted to the

7-00085-12

2012430__

3017 department within 6 months after the rehabilitation of the
3018 property is deemed to be substantially completed by the local
3019 building code inspector or by November 1 after the rehabilitated
3020 property is first subject to assessment.

3021 5. Only one exemption through a refund of previously paid
3022 taxes for the rehabilitation of real property is permitted for
3023 any single parcel of property unless there is a change in
3024 ownership, a new lessor, or a new lessee of the real property.
3025 Only one exemption through a refund of previously paid taxes for
3026 the rehabilitation of real property is permitted for any single
3027 building. A refund may not be granted unless the amount to be
3028 refunded exceeds \$500. A refund may not exceed the lesser of 97
3029 percent of the Florida sales or use tax paid on the cost of the
3030 building materials used in the rehabilitation of the real
3031 property as determined pursuant to sub-subparagraph 1.e. or
3032 \$5,000, or, if at least 20 percent of the employees of the
3033 business are residents of an enterprise zone, excluding
3034 temporary and part-time employees, the amount of refund may not
3035 exceed the lesser of 97 percent of the sales tax paid on the
3036 cost of the building materials or \$10,000. A refund shall be
3037 made within 30 days after formal approval by the department of
3038 the application for the refund.

3039 6. The department shall adopt rules governing the manner
3040 and form of refund applications and may establish guidelines as
3041 to the requisites for an affirmative showing of qualification
3042 for exemption under this paragraph.

3043 7. The department shall deduct an amount equal to 10
3044 percent of each refund granted under this paragraph from the
3045 amount transferred into the Local Government Half-cent Sales Tax

7-00085-12

2012430__

3046 Clearing Trust Fund pursuant to s. 212.20 for the county area in
3047 which the rehabilitated real property is located and shall
3048 transfer that amount to the General Revenue Fund.

3049 8. For the purposes of the exemption provided in this
3050 paragraph, the term:

3051 a. "Building materials" means tangible personal property
3052 that becomes a component part of improvements to real property.

3053 b. "Full-time employee" means a person who performs duties
3054 in connection with the operations of an eligible business on a
3055 regular, full-time basis for an average of at least 36 hours per
3056 week each month throughout the year.

3057 ~~c.b.~~ "Real property" has the same meaning as provided in s.
3058 192.001(12), except that the term does not include a condominium
3059 parcel or condominium property as defined in s. 718.103.

3060 ~~d.e.~~ "Rehabilitation of real property" means the
3061 reconstruction, renovation, restoration, rehabilitation,
3062 construction, or expansion of improvements to real property.

3063 ~~e.d.~~ "Substantially completed" has the same meaning as
3064 provided in s. 192.042(1).

3065 f. "Temporary employee" means an employee who has been
3066 employed by an eligible business for less than 3 months on the
3067 date of the application for the exemption provided in this
3068 paragraph, or who is employed only for a limited time.

3069 9. This paragraph expires on the date specified in s.
3070 290.016 for the expiration of the Florida Enterprise Zone Act.

3071 (14) HOURLY, DAILY, OR MILEAGE CHARGES; HIGH-VOLTAGE
3072 TRANSMISSION FACILITY.—The following are exempt from the taxes
3073 imposed by this chapter:

3074 (a) The hourly, daily, or mileage charges, to the extent

7-00085-12

2012430

3075 that such charges are subject to the jurisdiction of the United
3076 States Interstate Commerce Commission, if such charges are paid
3077 by reason of the presence of railroad cars owned by another
3078 company on the tracks of the taxpayer, or such charges are made
3079 pursuant to car service agreements.

3080 (b) The payments made to an owner of a high-voltage bulk
3081 transmission facility in connection with the possession or
3082 control of such facility by a regional transmission
3083 organization, independent system operator, or similar entity
3084 under the jurisdiction of the Federal Energy Regulatory
3085 Commission. However, if two taxpayers, in connection with the
3086 interchange of facilities, rent or lease property, each to the
3087 other, for use in providing or furnishing any of the services
3088 mentioned in s. 166.231, the term "lease or rental" means only
3089 the net amount of rental involved. ~~TECHNICAL ASSISTANCE ADVISORY~~
3090 ~~COMMITTEE. The department shall establish a technical assistance~~
3091 ~~advisory committee with public and private sector members,~~
3092 ~~including representatives of both manufacturers and retailers,~~
3093 ~~to advise the Department of Revenue and the Department of Health~~
3094 ~~in determining the taxability of specific products and product~~
3095 ~~lines pursuant to subsection (1) and paragraph (2) (a). In~~
3096 ~~determining taxability and in preparing a list of specific~~
3097 ~~products and product lines that are or are not taxable, the~~
3098 ~~committee shall not be subject to the provisions of chapter 120.~~
3099 ~~Private sector members shall not be compensated for serving on~~
3100 ~~the committee.~~

3101 (17) EXEMPTIONS; CERTAIN GOVERNMENT CONTRACTORS.—

3102 (b) As used in this subsection, the term "overhead
3103 materials" means all tangible personal property, other than

7-00085-12

2012430__

3104 ~~qualifying property as defined in s. 212.02(14)(a) and~~
3105 electricity, which is used or consumed in the performance of a
3106 qualifying contract, title to which property vests in or passes
3107 to the government under the contract.

3108 (c) As used in this subsection ~~and in s. 212.02(14)(a)~~, the
3109 term "qualifying contract" means a contract with the United
3110 States Department of Defense or the National Aeronautics and
3111 Space Administration, or a subcontract thereunder, but does not
3112 include a contract or subcontract for the repair, alteration,
3113 improvement, or construction of real property, except to the
3114 extent that purchases under such a contract would otherwise be
3115 exempt from the tax imposed by this chapter.

3116 Section 14. Section 212.094, Florida Statutes, is created
3117 to read:

3118 212.094 Purchaser requests for refunds from dealers.-

3119 (1) If a purchaser seeks a refund of or credit against a
3120 tax collected under this chapter by a dealer, the purchaser
3121 shall submit a written request for the refund or credit to the
3122 dealer in accordance with this section. The request must contain
3123 all the information necessary for the dealer to determine the
3124 validity of the purchaser's request.

3125 (2) The purchaser may not take any other action against the
3126 dealer with respect to the requested refund or credit until 60
3127 days after the dealer's receipt of a completed request.

3128 (3) This section does not affect a person's standing to
3129 claim a refund.

3130 (4) This section does not apply to refunds resulting from
3131 merchandise returned by a customer to a dealer.

3132 Section 15. Section 212.12, Florida Statutes, is amended to

7-00085-12

2012430

3133 read:

3134 212.12 Dealer's credit for collecting tax; penalties for
3135 noncompliance; powers of Department of Revenue in dealing with
3136 delinquents; ~~brackets applicable to taxable transactions;~~
3137 records required.-

3138 (1) (a) Notwithstanding any other provision of law and for
3139 the purpose of compensating persons granting licenses for and
3140 the lessors of real and personal property taxed hereunder, for
3141 the purpose of compensating dealers in tangible personal
3142 property, for the purpose of compensating dealers providing
3143 communication services and taxable services, for the purpose of
3144 compensating owners of places where admissions are collected,
3145 and for the purpose of compensating remitters of any taxes or
3146 fees reported on the same documents utilized for the sales and
3147 use tax, as compensation for the keeping of prescribed records,
3148 filing timely tax returns, and the proper accounting and
3149 remitting of taxes by them, such seller, person, lessor, dealer,
3150 owner, or and remitter shall be allowed a collection allowance
3151 based on a percentage of tax remitted for a reporting period.

3152 The rate of compensation is:

3153 1. Of the first \$6,250 of tax remitted, 0.75 percent;

3154 2. Of the tax remitted exceeding \$6,250 and less than or
3155 equal to \$62,500, 0.375 percent; and

3156 3. Of the tax remitted exceeding \$62,500, 0.1875 percent.

3157 (b) The amount of collection allowance for each seller,
3158 person, lessor, dealer, owner, or remitter is limited based on
3159 the amount of sales and use tax remitted in the 12-month period
3160 ending June 30 of the previous calendar year. No collection
3161 allowance is allowed on the total tax remitted by any seller,

7-00085-12

2012430

3162 person, lessor, dealer, owner, or remitter in any month in
3163 excess of:

3164 1. The amount of \$750,000, if the total amount remitted by
3165 all dealers in the previous year was equal to or less than \$1
3166 billion;

3167 2. The amount of \$1 million, if the total amount remitted
3168 by all dealers in the previous year was greater than \$1 billion
3169 but equal to or less than \$2.5 billion;

3170 3. The amount of \$3 million, if the total amount remitted
3171 by all dealers in the previous year was greater than \$2.5
3172 billion but equal to or less than \$5 billion;

3173 4. The amount of \$5 million, if the total amount remitted
3174 by all dealers in the previous year was greater than \$5 billion
3175 but equal to or less than \$7.5 billion;

3176 5. The amount of \$7 million, if the total amount remitted
3177 by all dealers in the previous year was greater than \$7.5
3178 billion but equal to or less than \$10 billion; or

3179 6. The amount of \$10 million, if the total amount remitted
3180 by all dealers in the previous year was greater than \$10
3181 billion. ~~(except dealers who make mail order sales) shall be~~
3182 allowed 2.5 percent of the amount of the tax due and accounted
3183 for and remitted to the department, in the form of a deduction
3184 in submitting his or her report and paying the amount due by him
3185 or her; the department shall allow such deduction of 2.5 percent
3186 of the amount of the tax to the person paying the same for
3187 remitting the tax and making of tax returns in the manner herein
3188 provided, for paying the amount due to be paid by him or her,
3189 and as further compensation to dealers in tangible personal
3190 property for the keeping of prescribed records and for

7-00085-12

2012430__

3191 ~~collection of taxes and remitting the same. However, if the~~
3192 ~~amount of the tax due and remitted to the department for the~~
3193 ~~reporting period exceeds \$1,200, no allowance shall be allowed~~
3194 ~~for all amounts in excess of \$1,200. The executive director of~~
3195 ~~the department is authorized to negotiate a collection~~
3196 ~~allowance, pursuant to rules promulgated by the department, with~~
3197 ~~a dealer who makes mail order sales. The rules of the department~~
3198 ~~shall provide guidelines for establishing the collection~~
3199 ~~allowance based upon the dealer's estimated costs of collecting~~
3200 ~~the tax, the volume and value of the dealer's mail order sales~~
3201 ~~to purchasers in this state, and the administrative and legal~~
3202 ~~costs and likelihood of achieving collection of the tax absent~~
3203 ~~the cooperation of the dealer. However, in no event shall the~~
3204 ~~collection allowance negotiated by the executive director exceed~~
3205 ~~10 percent of the tax remitted for a reporting period.~~

3206 (c) ~~(a)~~ The Department of Revenue may deny the collection
3207 allowance if a taxpayer files an incomplete return or if the
3208 required tax return or tax is delinquent at the time of payment.

3209 1. An "incomplete return" is, for purposes of this chapter,
3210 a return that ~~which~~ is lacking such uniformity, completeness,
3211 and arrangement that the physical handling, verification, review
3212 of the return, or determination of other taxes and fees reported
3213 on the return may not be readily accomplished.

3214 2. The department shall adopt rules requiring such
3215 information as it may deem necessary to ensure that the tax
3216 levied hereunder is properly collected, reviewed, compiled,
3217 reported, and enforced, including, but not limited to: the
3218 amount of gross sales; the amount of taxable sales; the amount
3219 of tax collected or due; the amount of lawful refunds,

7-00085-12

2012430__

3220 deductions, or credits claimed; the amount claimed as the
3221 dealer's collection allowance; the amount of penalty and
3222 interest; the amount due with the return; and such other
3223 information as the Department of Revenue may specify. The
3224 department shall require that transient rentals and agricultural
3225 equipment transactions be separately shown. Sales made through
3226 vending machines as defined in s. 212.0515 must be separately
3227 shown on the return. Sales made through coin-operated amusement
3228 machines as defined by s. 212.02 and the number of machines
3229 operated must be separately shown on the return or on a form
3230 prescribed by the department. If a separate form is required,
3231 the same penalties for late filing, incomplete filing, or
3232 failure to file as provided for the sales tax return shall apply
3233 to said form.

3234 (d)~~(b)~~ The collection allowance and other credits or
3235 deductions provided in this chapter shall be applied
3236 proportionally to any taxes or fees reported on the same
3237 documents used for the sales and use tax.

3238 (e)~~(e)~~1. A dealer entitled to the collection allowance
3239 provided in this section may elect to forego the collection
3240 allowance and direct that said amount be transferred into the
3241 Educational Enhancement Trust Fund. Such an election must be
3242 made with the timely filing of a return and may not be rescinded
3243 once made. If a dealer who makes such an election files a
3244 delinquent return, underpays the tax, or files an incomplete
3245 return, the amount transferred into the Educational Enhancement
3246 Trust Fund shall be the amount of the collection allowance
3247 remaining after resolution of liability for all of the tax,
3248 interest, and penalty due on that return or underpayment of tax.

7-00085-12

2012430__

3249 The Department of Education shall distribute the remaining
3250 amount from the trust fund to the school districts that have
3251 adopted resolutions stating that those funds will be used to
3252 ensure that up-to-date technology is purchased for the
3253 classrooms in the district and that teachers are trained in the
3254 use of that technology. Revenues collected in districts that do
3255 not adopt such a resolution shall be equally distributed to
3256 districts that have adopted such resolutions.

3257 2. This paragraph applies to all taxes, surtaxes, and any
3258 local option taxes administered under this chapter and remitted
3259 directly to the department. This paragraph does not apply to any
3260 locally imposed and self-administered convention development
3261 tax, tourist development tax, or tourist impact tax administered
3262 under this chapter.

3263 3. Revenues from the dealer-collection allowances shall be
3264 transferred quarterly from the General Revenue Fund to the
3265 Educational Enhancement Trust Fund. The Department of Revenue
3266 shall provide to the Department of Education quarterly
3267 information about such revenues by county to which the
3268 collection allowance was attributed.

3269
3270 Notwithstanding any provision of chapter 120 to the contrary,
3271 the Department of Revenue may adopt rules to carry out the
3272 amendment made by chapter 2006-52, Laws of Florida, to this
3273 section.

3274 (f) Notwithstanding paragraph (a), a small remote seller
3275 may elect to receive a collection allowance of 20 percent of the
3276 tax to be remitted to the state, not to exceed compensation of
3277 \$85 in any month in lieu of compensation provided in paragraph

7-00085-12

2012430

3278 (b). Such election is effective for a 6-month period beginning
3279 with the first month that such seller collects Florida tax.
3280 After 6 months, the collection allowance shall be those rates
3281 established in paragraph (b). The increased amount of collection
3282 allowance permitted by this paragraph is available to a small
3283 remote seller that begins collecting tax for the state within
3284 the first 12 months following the date of registration.

3285 (g) If sales and use tax collection from remote sellers is
3286 not greater than 20 percent of the amount determined by the
3287 Revenue Estimating Conference of potential collections by July
3288 1, 2015, the collection allowance permitted by this subsection
3289 shall be reduced to 2.5 percent of tax collected, not to exceed
3290 \$30.

3291 (h) Notwithstanding paragraphs (a) and (b), a Model 1
3292 seller, as defined in s. 213.256, is not entitled to the
3293 collection allowance described in paragraphs (a) and (b).

3294 (i)1. In addition to any collection allowance that may be
3295 provided under this subsection, the department may provide the
3296 monetary allowances required to be provided by the state to
3297 certified service providers and voluntary sellers pursuant to
3298 Article VI of the Streamlined Sales and Use Tax Agreement, as
3299 amended.

3300 2. Such monetary allowances must be in the form of
3301 collection allowances that certified service providers or
3302 voluntary sellers are permitted to retain from the tax revenues
3303 collected on remote sales to be remitted to the state pursuant
3304 to this chapter.

3305 (j) As used in this subsection, the term:

3306 1. "Small remote seller" means a new remote seller that has

7-00085-12

2012430__

3307 gross national remote sales of not more than \$5 million and
3308 would not otherwise be required to register in this state.

3309 2. "New remote seller" means a remote seller that registers
3310 under the agreement, as provided in s. 213.2567, and that was
3311 not previously required to collect sales or use tax. A seller
3312 merely reincorporating, changing its name, or having a change in
3313 ownership or any other similar change in its business structure
3314 or operation is not a new remote seller.

3315 3. "Remote seller" means a seller that would not be
3316 registered in this state but for the ability of this state to
3317 require the seller to collect sales or use tax under federal
3318 authority.

3319 (2) (a) When any person required hereunder to make any
3320 return or to pay any tax or fee imposed by this chapter either
3321 fails to timely file such return or fails to pay the tax or fee
3322 shown due on the return within the time required hereunder, in
3323 addition to all other penalties provided herein and by the laws
3324 of this state in respect to such taxes or fees, a specific
3325 penalty shall be added to the tax or fee in the amount of 10
3326 percent of either the tax or fee shown on the return that is not
3327 timely filed or any tax or fee not paid timely. The penalty may
3328 not be less than \$50 for failure to timely file a tax return
3329 required by s. 212.11(1) or timely pay the tax or fee shown due
3330 on the return except as provided in s. 213.21(10). If a person
3331 fails to timely file a return required by s. 212.11(1) and to
3332 timely pay the tax or fee shown due on the return, only one
3333 penalty of 10 percent, which may not be less than \$50, shall be
3334 imposed.

3335 (b) When any person required under this section to make a

7-00085-12

2012430

3336 return or to pay a tax or fee imposed by this chapter fails to
3337 disclose the tax or fee on the return within the time required,
3338 excluding a noncompliant filing event generated by situations
3339 covered in paragraph (a), in addition to all other penalties
3340 provided in this section and by the laws of this state in
3341 respect to such taxes or fees, a specific penalty shall be added
3342 to the additional tax or fee owed in the amount of 10 percent of
3343 any such unpaid tax or fee not paid timely if the failure is for
3344 not more than 30 days, with an additional 10 percent of any such
3345 unpaid tax or fee for each additional 30 days, or fraction
3346 thereof, while the failure continues, not to exceed a total
3347 penalty of 50 percent, in the aggregate, of any unpaid tax or
3348 fee.

3349 (c) Any person who knowingly and with a willful intent to
3350 evade any tax imposed under this chapter fails to file six
3351 consecutive returns as required by law commits a felony of the
3352 third degree, punishable as provided in s. 775.082 or s.
3353 775.083.

3354 (d) Any person who makes a false or fraudulent return with
3355 a willful intent to evade payment of any tax or fee imposed
3356 under this chapter; any person who, after the department's
3357 delivery of a written notice to the person's last known address
3358 specifically alerting the person of the requirement to register
3359 the person's business as a dealer, intentionally fails to
3360 register the business; and any person who, after the
3361 department's delivery of a written notice to the person's last
3362 known address specifically alerting the person of the
3363 requirement to collect tax on specific transactions,
3364 intentionally fails to collect such tax, shall, in addition to

7-00085-12

2012430__

3365 the other penalties provided by law, be liable for a specific
3366 penalty of 100 percent of any unreported or any uncollected tax
3367 or fee and, upon conviction, for fine and punishment as provided
3368 in s. 775.082, s. 775.083, or s. 775.084. Delivery of written
3369 notice may be made by certified mail, or by the use of such
3370 other method as is documented as being necessary and reasonable
3371 under the circumstances. The civil and criminal penalties
3372 imposed herein for failure to comply with a written notice
3373 alerting the person of the requirement to register the person's
3374 business as a dealer or to collect tax on specific transactions
3375 shall not apply if the person timely files a written challenge
3376 to such notice in accordance with procedures established by the
3377 department by rule or the notice fails to clearly advise that
3378 failure to comply with or timely challenge the notice will
3379 result in the imposition of the civil and criminal penalties
3380 imposed herein.

3381 1. If the total amount of unreported or uncollected taxes
3382 or fees is less than \$300, the first offense resulting in
3383 conviction is a misdemeanor of the second degree, the second
3384 offense resulting in conviction is a misdemeanor of the first
3385 degree, and the third and all subsequent offenses resulting in
3386 conviction is a misdemeanor of the first degree, and the third
3387 and all subsequent offenses resulting in conviction are felonies
3388 of the third degree.

3389 2. If the total amount of unreported or uncollected taxes
3390 or fees is \$300 or more but less than \$20,000, the offense is a
3391 felony of the third degree.

3392 3. If the total amount of unreported or uncollected taxes
3393 or fees is \$20,000 or more but less than \$100,000, the offense

7-00085-12

2012430

3394 is a felony of the second degree.

3395 4. If the total amount of unreported or uncollected taxes
3396 or fees is \$100,000 or more, the offense is a felony of the
3397 first degree.

3398 (e) A person who willfully attempts in any manner to evade
3399 any tax, surcharge, or fee imposed under this chapter or the
3400 payment thereof is, in addition to any other penalties provided
3401 by law, liable for a specific penalty in the amount of 100
3402 percent of the tax, surcharge, or fee, and commits a felony of
3403 the third degree, punishable as provided in s. 775.082, s.
3404 775.083, or s. 775.084.

3405 (f) When any person, firm, or corporation fails to timely
3406 remit the proper estimated payment required under s. 212.11, a
3407 specific penalty shall be added in an amount equal to 10 percent
3408 of any unpaid estimated tax. Beginning with January 1, 1985,
3409 returns, the department, upon a showing of reasonable cause, is
3410 authorized to waive or compromise penalties imposed by this
3411 paragraph. However, other penalties and interest shall be due
3412 and payable if the return on which the estimated payment was due
3413 was not timely or properly filed.

3414 (g) A dealer who files a consolidated return pursuant to s.
3415 212.11(1)(e) is subject to the penalty established in paragraph
3416 (e) unless the dealer has paid the required estimated tax for
3417 his or her consolidated return as a whole without regard to each
3418 location. If the dealer fails to pay the required estimated tax
3419 for his or her consolidated return as a whole, each filing
3420 location shall stand on its own with respect to calculating
3421 penalties pursuant to paragraph (f).

3422 (3) When any dealer, or other person charged herein, fails

7-00085-12

2012430

3423 to remit the tax, or any portion thereof, on or before the day
3424 when such tax is required by law to be paid, there shall be
3425 added to the amount due interest at the rate of 1 percent per
3426 month of the amount due from the date due until paid. Interest
3427 on the delinquent tax shall be calculated beginning on the 21st
3428 day of the month following the month for which the tax is due,
3429 except as otherwise provided in this chapter.

3430 (4) All penalties and interest imposed by this chapter
3431 shall be payable to and collectible by the department in the
3432 same manner as if they were a part of the tax imposed. The
3433 department may settle or compromise any such interest or
3434 penalties pursuant to s. 213.21.

3435 (5) (a) The department is authorized to audit or inspect the
3436 records and accounts of dealers defined herein, ~~including audits~~
3437 ~~or inspections of dealers who make mail order sales to the~~
3438 ~~extent permitted by another state,~~ and to correct by credit any
3439 overpayment of tax, and, in the event of a deficiency, an
3440 assessment shall be made and collected. No administrative
3441 finding of fact is necessary prior to the assessment of any tax
3442 deficiency.

3443 (b) In the event any dealer or other person charged herein
3444 fails or refuses to make his or her records available for
3445 inspection so that no audit or examination has been made of the
3446 books and records of such dealer or person, fails or refuses to
3447 register as a dealer, fails to make a report and pay the tax as
3448 provided by this chapter, makes a grossly incorrect report or
3449 makes a report that is false or fraudulent, then, in such event,
3450 it shall be the duty of the department to make an assessment
3451 from an estimate based upon the best information then available

7-00085-12

2012430__

3452 to it for the taxable period of retail sales of such dealer, the
3453 gross proceeds from rentals, the total admissions received,
3454 amounts received from leases of tangible personal property by
3455 such dealer, or of the cost price of all articles of tangible
3456 personal property imported by the dealer for use or consumption
3457 or distribution or storage to be used or consumed in this state,
3458 or of the sales or cost price of all services the sale or use of
3459 which is taxable under this chapter, together with interest,
3460 plus penalty, if such have accrued, as the case may be. Then the
3461 department shall proceed to collect such taxes, interest, and
3462 penalty on the basis of such assessment, which shall be
3463 considered prima facie correct, and the burden to show the
3464 contrary shall rest upon the dealer, seller, owner, or lessor,
3465 as the case may be.

3466 (6) (a) The department is given the power to prescribe the
3467 records to be kept by all persons subject to taxes imposed by
3468 this chapter. It shall be the duty of every person required to
3469 make a report and pay any tax under this chapter, every person
3470 receiving rentals or license fees, and owners of places of
3471 admission, to keep and preserve suitable records of the sales,
3472 leases, rentals, license fees, admissions, or purchases, as the
3473 case may be, taxable under this chapter; such other books of
3474 account as may be necessary to determine the amount of the tax
3475 due hereunder; and other information as may be required by the
3476 department. It shall be the duty of every such person so charged
3477 with such duty, moreover, to keep and preserve as long as
3478 required by s. 213.35 all invoices and other records of goods,
3479 wares, and merchandise; records of admissions, leases, license
3480 fees and rentals; and records of all other subjects of taxation

7-00085-12

2012430

3481 under this chapter. All such books, invoices, and other records
3482 shall be open to examination at all reasonable hours to the
3483 department or any of its duly authorized agents.

3484 (b) For the purpose of this subsection, if a dealer does
3485 not have adequate records of his or her retail sales or
3486 purchases, the department may, upon the basis of a test or
3487 sampling of the dealer's available records or other information
3488 relating to the sales or purchases made by such dealer for a
3489 representative period, determine the proportion that taxable
3490 retail sales bear to total retail sales or the proportion that
3491 taxable purchases bear to total purchases. This subsection does
3492 not affect the duty of the dealer to collect, or the liability
3493 of any consumer to pay, any tax imposed by or pursuant to this
3494 chapter.

3495 (c)1. If the records of a dealer are adequate but
3496 voluminous in nature and substance, the department may sample
3497 such records and project the audit findings derived therefrom
3498 over the entire audit period to determine the proportion that
3499 taxable retail sales bear to total retail sales or the
3500 proportion that taxable purchases bear to total purchases. In
3501 order to conduct such a sample, the department must first make a
3502 good faith effort to reach an agreement with the dealer, which
3503 agreement provides for the means and methods to be used in the
3504 sampling process. In the event that no agreement is reached, the
3505 dealer is entitled to a review by the executive director. In the
3506 case of fixed assets, a dealer may agree in writing with the
3507 department for adequate but voluminous records to be
3508 statistically sampled. Such an agreement shall provide for the
3509 methodology to be used in the statistical sampling process. The

7-00085-12

2012430__

3510 audit findings derived therefrom shall be projected over the
3511 period represented by the sample in order to determine the
3512 proportion that taxable purchases bear to total purchases. Once
3513 an agreement has been signed, it is final and conclusive with
3514 respect to the method of sampling fixed assets, and the
3515 department may not conduct a detailed audit of fixed assets, and
3516 the taxpayer may not request a detailed audit after the
3517 agreement is reached.

3518 2. For the purposes of sampling pursuant to subparagraph
3519 1., the department shall project any deficiencies and
3520 overpayments derived therefrom over the entire audit period. In
3521 determining the dealer's compliance, the department shall reduce
3522 any tax deficiency as derived from the sample by the amount of
3523 any overpayment derived from the sample. In the event the
3524 department determines from the sample results that the dealer
3525 has a net tax overpayment, the department shall provide the
3526 findings of this overpayment to the Chief Financial Officer for
3527 repayment of funds paid into the State Treasury through error
3528 pursuant to s. 215.26.

3529 3.a. A taxpayer is entitled, both in connection with an
3530 audit and in connection with an application for refund filed
3531 independently of any audit, to establish the amount of any
3532 refund or deficiency through statistical sampling when the
3533 taxpayer's records are adequate but voluminous. In the case of
3534 fixed assets, a dealer may agree in writing with the department
3535 for adequate but voluminous records to be statistically sampled.
3536 Such an agreement shall provide for the methodology to be used
3537 in the statistical sampling process. The audit findings derived
3538 therefrom shall be projected over the period represented by the

7-00085-12

2012430__

3539 sample in order to determine the proportion that taxable
3540 purchases bear to total purchases. Once an agreement has been
3541 signed, it is final and conclusive with respect to the method of
3542 sampling fixed assets, and the department may not conduct a
3543 detailed audit of fixed assets, and the taxpayer may not request
3544 a detailed audit after the agreement is reached.

3545 b. Alternatively, a taxpayer is entitled to establish any
3546 refund or deficiency through any other sampling method agreed
3547 upon by the taxpayer and the department when the taxpayer's
3548 records, other than those regarding fixed assets, are adequate
3549 but voluminous. Whether done through statistical sampling or any
3550 other sampling method agreed upon by the taxpayer and the
3551 department, the completed sample must reflect both overpayments
3552 and underpayments of taxes due. The sample shall be conducted
3553 through:

3554 (I) A taxpayer request to perform the sampling through the
3555 certified audit program pursuant to s. 213.285;

3556 (II) Attestation by a certified public accountant as to the
3557 adequacy of the sampling method utilized and the results reached
3558 using such sampling method; or

3559 (III) A sampling method that has been submitted by the
3560 taxpayer and approved by the department before a refund claim is
3561 submitted. This sub-sub-subparagraph does not prohibit a
3562 taxpayer from filing a refund claim prior to approval by the
3563 department of the sampling method; however, a refund claim
3564 submitted before the sampling method has been approved by the
3565 department cannot be a complete refund application pursuant to
3566 s. 213.255 until the sampling method has been approved by the
3567 department.

7-00085-12

2012430__

3568 c. The department shall prescribe by rule the procedures to
3569 be followed under each method of sampling. Such procedures shall
3570 follow generally accepted auditing procedures for sampling. The
3571 rule shall also set forth other criteria regarding the use of
3572 sampling, including, but not limited to, training requirements,
3573 which ~~that~~ must be met before a sampling method may be utilized
3574 and the steps necessary for the department and the taxpayer to
3575 reach agreement on a sampling method submitted by the taxpayer
3576 for approval by the department.

3577 (7) In the event the dealer has imported tangible personal
3578 property and he or she fails to produce an invoice showing the
3579 cost price of the articles, as defined in this chapter, which
3580 are subject to tax, or the invoice does not reflect the true or
3581 actual cost price as defined herein, then the department shall
3582 ascertain, in any manner feasible, the true cost price, and
3583 assess and collect the tax thereon with interest plus penalties,
3584 if such have accrued on the true cost price as assessed by it.
3585 The assessment so made shall be considered prima facie correct,
3586 and the duty shall be on the dealer to show to the contrary.

3587 (8) In the case of the lease or rental of tangible personal
3588 property, or other rentals or license fees as herein defined and
3589 taxed, if the consideration given or reported by the lessor,
3590 person receiving rental or license fee, or dealer does not, in
3591 the judgment of the department, represent the true or actual
3592 consideration, then the department is authorized to ascertain
3593 the same and assess and collect the tax thereon in the same
3594 manner as above provided, with respect to imported tangible
3595 property, together with interest, plus penalties, if such have
3596 accrued.

7-00085-12

2012430__

3597 (9) Taxes imposed by this chapter upon the privilege of the
3598 use, consumption, storage for consumption, or sale of tangible
3599 personal property, admissions, license fees, rentals,
3600 communication services, and upon the sale or use of services as
3601 herein taxed shall be collected upon the basis of an addition of
3602 the tax imposed by this chapter to the total price of such
3603 admissions, license fees, rentals, communication or other
3604 services, or sale price of such article or articles that are
3605 purchased, sold, or leased at any one time by or to a customer
3606 or buyer; the dealer, or person charged herein, is required to
3607 pay a privilege tax in the amount of the tax imposed by this
3608 chapter on the total of his or her gross sales of tangible
3609 personal property, admissions, license fees, rentals, and
3610 communication services or to collect a tax upon the sale or use
3611 of services, and such person or dealer shall add the tax imposed
3612 by this chapter to the price, license fee, rental, or
3613 admissions, and communication or other services and collect the
3614 total sum from the purchaser, admittee, licensee, lessee, or
3615 consumer. In computing the tax due or to be collected as the
3616 result of any transaction, the dealer may elect to compute the
3617 tax due on a transaction on a per-item basis or on an invoice
3618 basis, consistent with the definition of the term "sales price."
3619 The tax rate shall be the sum of the applicable state and local
3620 rates, if any, and the tax computation shall be carried to the
3621 third decimal place. Whenever the third decimal place is greater
3622 than four, the tax shall be rounded to the next whole cent. The
3623 ~~department shall make available in an electronic format or~~
3624 ~~otherwise the tax amounts and the following brackets applicable~~
3625 ~~to all transactions taxable at the rate of 6 percent:~~

7-00085-12

2012430__

3626 ~~(a) On single sales of less than 10 cents, no tax shall be~~
3627 ~~added.~~

3628 ~~(b) On single sales in amounts from 10 cents to 16 cents,~~
3629 ~~both inclusive, 1 cent shall be added for taxes.~~

3630 ~~(c) On sales in amounts from 17 cents to 33 cents, both~~
3631 ~~inclusive, 2 cents shall be added for taxes.~~

3632 ~~(d) On sales in amounts from 34 cents to 50 cents, both~~
3633 ~~inclusive, 3 cents shall be added for taxes.~~

3634 ~~(e) On sales in amounts from 51 cents to 66 cents, both~~
3635 ~~inclusive, 4 cents shall be added for taxes.~~

3636 ~~(f) On sales in amounts from 67 cents to 83 cents, both~~
3637 ~~inclusive, 5 cents shall be added for taxes.~~

3638 ~~(g) On sales in amounts from 84 cents to \$1, both~~
3639 ~~inclusive, 6 cents shall be added for taxes.~~

3640 ~~(h) On sales in amounts of more than \$1, 6 percent shall be~~
3641 ~~charged upon each dollar of price, plus the appropriate bracket~~
3642 ~~charge upon any fractional part of a dollar.~~

3643 ~~(10) In counties which have adopted a discretionary sales~~
3644 ~~surtax at the rate of 1 percent, the department shall make~~
3645 ~~available in an electronic format or otherwise the tax amounts~~
3646 ~~and the following brackets applicable to all taxable~~
3647 ~~transactions that would otherwise have been transactions taxable~~
3648 ~~at the rate of 6 percent:~~

3649 ~~(a) On single sales of less than 10 cents, no tax shall be~~
3650 ~~added.~~

3651 ~~(b) On single sales in amounts from 10 cents to 14 cents,~~
3652 ~~both inclusive, 1 cent shall be added for taxes.~~

3653 ~~(c) On sales in amounts from 15 cents to 28 cents, both~~
3654 ~~inclusive, 2 cents shall be added for taxes.~~

7-00085-12

2012430

3655 ~~(d) On sales in amounts from 29 cents to 42 cents, both~~
3656 ~~inclusive, 3 cents shall be added for taxes.~~

3657 ~~(e) On sales in amounts from 43 cents to 57 cents, both~~
3658 ~~inclusive, 4 cents shall be added for taxes.~~

3659 ~~(f) On sales in amounts from 58 cents to 71 cents, both~~
3660 ~~inclusive, 5 cents shall be added for taxes.~~

3661 ~~(g) On sales in amounts from 72 cents to 85 cents, both~~
3662 ~~inclusive, 6 cents shall be added for taxes.~~

3663 ~~(h) On sales in amounts from 86 cents to \$1, both~~
3664 ~~inclusive, 7 cents shall be added for taxes.~~

3665 ~~(i) On sales in amounts from \$1 up to, and including, the~~
3666 ~~first \$5,000 in price, 7 percent shall be charged upon each~~
3667 ~~dollar of price, plus the appropriate bracket charge upon any~~
3668 ~~fractional part of a dollar.~~

3669 ~~(j) On sales in amounts of more than \$5,000 in price, 7~~
3670 ~~percent shall be added upon the first \$5,000 in price, and 6~~
3671 ~~percent shall be added upon each dollar of price in excess of~~
3672 ~~the first \$5,000 in price, plus the bracket charges upon any~~
3673 ~~fractional part of a dollar as provided for in subsection (9).~~

3674 ~~(11) The department shall make available in an electronic~~
3675 ~~format or otherwise the tax amounts and brackets applicable to~~
3676 ~~all taxable transactions that occur in counties that have a~~
3677 ~~surtax at a rate other than 1 percent which transactions would~~
3678 ~~otherwise have been transactions taxable at the rate of 6~~
3679 ~~percent. Likewise, the department shall make available in an~~
3680 ~~electronic format or otherwise the tax amounts and brackets~~
3681 ~~applicable to transactions taxable at 7 percent pursuant to s.~~
3682 ~~212.05(1)(e) and on transactions which would otherwise have been~~
3683 ~~so taxable in counties which have adopted a discretionary sales~~

7-00085-12

2012430__

3684 ~~surtax.~~

3685 (10)~~(12)~~ The Legislature intends ~~It is hereby declared to~~
3686 ~~be the legislative intent~~ that, whenever in the construction,
3687 administration, or enforcement of this chapter there may be any
3688 question respecting a duplication of the tax, the end consumer,
3689 or the last retail sale, is ~~be~~ the sale intended to be taxed and
3690 insofar as may be practicable there be no duplication or
3691 pyramiding of the tax.

3692 (11)~~(13)~~ In order to aid the administration and enforcement
3693 of the provisions of this chapter with respect to the rentals
3694 and license fees, each lessor or person granting the use of any
3695 hotel, apartment house, roominghouse, tourist or trailer camp,
3696 real property, or any interest therein, or any portion thereof,
3697 inclusive of owners; property managers; lessors; landlords;
3698 hotel, apartment house, and roominghouse operators; and all
3699 licensed real estate agents within the state leasing, granting
3700 the use of, or renting such property, shall be required to keep
3701 a record of each and every such lease, license, or rental
3702 transaction that ~~which~~ is taxable under this chapter, in such a
3703 manner and upon such forms as the department may prescribe, and
3704 to report such transaction to the department or its designated
3705 agents, and to maintain such records as long as required by s.
3706 213.35, subject to the inspection of the department and its
3707 agents. Upon the failure by such owner; property manager;
3708 lessor; landlord; hotel, apartment house, roominghouse, tourist
3709 or trailer camp operator; or real estate agent to keep and
3710 maintain such records and to make such reports upon the forms
3711 and in the manner prescribed, such owner; property manager;
3712 lessor; landlord; hotel, apartment house, roominghouse, tourist

7-00085-12

2012430__

3713 or trailer camp operator; receiver of rent or license fees; or
3714 real estate agent commits ~~is guilty of~~ a misdemeanor of the
3715 second degree, punishable as provided in s. 775.082 or s.
3716 775.083, for the first offense; for subsequent offenses, ~~they~~
3717 ~~are each~~ is ~~guilty of~~ a misdemeanor of the first degree,
3718 punishable as provided in s. 775.082 or s. 775.083. If, however,
3719 any subsequent offense involves intentional destruction of such
3720 records with an intent to evade payment of or deprive the state
3721 of any tax revenues, such subsequent offense is ~~shall be~~ a
3722 felony of the third degree, punishable as provided in s. 775.082
3723 or s. 775.083.

3724 ~~(14) If it is determined upon audit that a dealer has~~
3725 ~~collected and remitted taxes by applying the applicable tax rate~~
3726 ~~to each transaction as described in subsection (9) and rounding~~
3727 ~~the tax due to the nearest whole cent rather than applying the~~
3728 ~~appropriate bracket system provided by law or department rule,~~
3729 ~~the dealer shall not be held liable for additional tax, penalty,~~
3730 ~~and interest resulting from such failure if:~~

3731 ~~(a) The dealer acted in a good faith belief that rounding~~
3732 ~~to the nearest whole cent was the proper method of determining~~
3733 ~~the amount of tax due on each taxable transaction.~~

3734 ~~(b) The dealer timely reported and remitted all taxes~~
3735 ~~collected on each taxable transaction.~~

3736 ~~(c) The dealer agrees in writing to future compliance with~~
3737 ~~the laws and rules concerning brackets applicable to the~~
3738 ~~dealer's transactions.~~

3739 Section 16. Subsection (1) of section 212.15, Florida
3740 Statutes, is amended to read:

3741 212.15 Taxes declared state funds; penalties for failure to

7-00085-12

2012430__

3742 remit taxes; due and delinquent dates; judicial review.—

3743 (1) The taxes imposed by this chapter shall, ~~except as~~
3744 ~~provided in s. 212.06(5)(a)2.e.~~, become state funds at the
3745 moment of collection and shall for each month be due to the
3746 department on the first day of the succeeding month and be
3747 delinquent on the 21st day of such month. All returns postmarked
3748 after the 20th day of such month are delinquent.

3749 Section 17. Subsection (3) of section 212.17, Florida
3750 Statutes, is amended to read:

3751 212.17 Credits for returned goods, rentals, or admissions;
3752 goods acquired for dealer's own use and subsequently resold;
3753 additional powers of department.—

3754 (3) A dealer who has remitted ~~paid~~ the tax imposed by this
3755 chapter on tangible personal property or services may take a
3756 credit or obtain a refund for ~~any~~ tax remitted ~~paid~~ by the
3757 dealer on the unpaid balance due on bad debts ~~worthless accounts~~
3758 within 12 months following the month in which the bad debt was
3759 ~~has been~~ charged off as uncollectable in the dealer's books and
3760 records and was eligible to be deducted for federal income tax
3761 purposes. A credit or refund based on a bad debt may not include
3762 finance charges or interest, sales tax, uncollectible amounts on
3763 property that remain in the possession of the selling dealer,
3764 expenses incurred in collection efforts, or any amounts relating
3765 to repossessed property.

3766 (a) A dealer who is taking a credit against or obtaining a
3767 refund on worthless accounts shall calculate the amount of the
3768 deduction pursuant to 26 U.S.C. s. 166.

3769 (b) When the amount of bad debt exceeds the amount of
3770 taxable sales for the period during which the bad debt is

7-00085-12

2012430__

3771 charged off, a refund claim must be filed, notwithstanding s.
3772 215.26(2), within the period prescribed in this subsection.

3773 (c) If any accounts so charged off for which a credit or
3774 refund has been obtained are thereafter in whole or in part paid
3775 to the dealer, the amount so paid shall be included in the first
3776 return filed after such collection and the tax paid accordingly.

3777 (d) If filing responsibilities have been assumed by a
3778 certified service provider, the certified service provider shall
3779 claim, on behalf of the dealer, any bad-debt allowance provided
3780 by this subsection. The certified service provider shall credit
3781 or refund to the dealer the full amount of any bad-debt
3782 allowance or refund received.

3783 (e) For purposes of reporting a payment received on a
3784 previously claimed bad debt, any payments made on a debt or
3785 account shall first be applied proportionally to the taxable
3786 price of the property or service and the sales tax on such
3787 property, and second to any interest, service charges, and any
3788 other charges.

3789 (f) In situations in which the books and records of the
3790 dealer or certified service provider making the claim for a bad-
3791 debt allowance support an allocation of the bad debts among
3792 states, the department may permit the allocation among states.

3793 Section 18. Paragraphs (a) and (e) of subsection (3) of
3794 section 212.18, Florida Statutes, are amended to read:

3795 212.18 Administration of law; registration of dealers;
3796 rules.-

3797 (3) (a) Every person desiring to engage in or conduct
3798 business in this state as a dealer, as defined in this chapter,
3799 or to lease, rent, or let or grant licenses in living quarters

7-00085-12

2012430__

3800 or sleeping or housekeeping accommodations in hotels, apartment
3801 houses, roominghouses, or tourist or trailer camps that are
3802 subject to tax under s. 212.03, or to lease, rent, or let or
3803 grant licenses in real property, as defined in this chapter, and
3804 every person who sells or receives anything of value by way of
3805 admissions, must file with the department an application for a
3806 certificate of registration for each place of business, showing
3807 the names of the persons who have interests in such business and
3808 their residences, the address of the business, and such other
3809 data as the department may reasonably require. However, owners
3810 and operators of vending machines or newspaper rack machines are
3811 required to obtain only one certificate of registration for each
3812 county in which such machines are located. The department, by
3813 rule, may authorize a dealer that uses independent sellers to
3814 sell its merchandise to remit tax on the retail sales price
3815 charged to the ultimate consumer in lieu of having the
3816 independent seller register as a dealer and remit the tax. The
3817 department may appoint the county tax collector as the
3818 department's agent to accept applications for registrations. The
3819 application must be made to the department before the person,
3820 firm, copartnership, or corporation may engage in such business,
3821 and it must be accompanied by a registration fee of \$5. ~~However,~~
3822 ~~a registration fee is not required to accompany an application~~
3823 ~~to engage in or conduct business to make mail order sales.~~ The
3824 department may waive the registration fee for applications
3825 submitted through the department's Internet registration process
3826 or the multistate electronic registration system.

3827 (e) As used in this paragraph, the term "exhibitor" means a
3828 person who enters into an agreement authorizing the display of

7-00085-12

2012430__

3829 tangible personal property or services at a convention or a
3830 trade show. The following provisions apply to the registration
3831 of exhibitors as dealers under this chapter:

3832 1. An exhibitor whose agreement prohibits the sale of
3833 tangible personal property or services subject to the tax
3834 imposed in this chapter is not required to register as a dealer.

3835 2. An exhibitor whose agreement provides for the sale at
3836 wholesale only of tangible personal property or services subject
3837 to the tax imposed in this chapter must obtain a resale
3838 certificate from the purchasing dealer but is not required to
3839 register as a dealer.

3840 3. An exhibitor whose agreement authorizes the retail sale
3841 of tangible personal property or services subject to the tax
3842 imposed in this chapter must register as a dealer and collect
3843 the tax imposed under this chapter on such sales.

3844 ~~4. Any exhibitor who makes a mail order sale pursuant to s.~~
3845 ~~212.0596 must register as a dealer.~~

3846

3847 Any person who conducts a convention or a trade show must make
3848 their exhibitor's agreements available to the department for
3849 inspection and copying.

3850 Section 19. Section 212.20, Florida Statutes, is amended to
3851 read:

3852 212.20 Funds collected, disposition; additional powers of
3853 department; operational expense; refund of taxes adjudicated
3854 unconstitutionally collected.—

3855 (1) The department shall pay over to the Chief Financial
3856 Officer of the state all funds received and collected by it
3857 under the provisions of this chapter, to be credited to the

7-00085-12

2012430__

3858 account of the General Revenue Fund of the state.

3859 (2) The department is authorized to employ all necessary
3860 assistants to administer this chapter properly and is also
3861 authorized to purchase all necessary supplies and equipment
3862 ~~which may be~~ required for this purpose.

3863 (3) The estimated amount of money needed for the
3864 administration of this chapter shall be included by the
3865 department in its annual legislative budget request for the
3866 operation of its office.

3867 ~~(4) When there has been a final adjudication that any tax~~
3868 ~~pursuant to s. 212.0596 was levied, collected, or both, contrary~~
3869 ~~to the Constitution of the United States or the State~~
3870 ~~Constitution, the department shall, in accordance with rules,~~
3871 ~~determine, based upon claims for refund and other evidence and~~
3872 ~~information, who paid such tax or taxes, and refund to each such~~
3873 ~~person the amount of tax paid. For purposes of this subsection,~~
3874 ~~a "final adjudication" is a decision of a court of competent~~
3875 ~~jurisdiction from which no appeal can be taken or from which the~~
3876 ~~official or officials of this state with authority to make such~~
3877 ~~decisions has or have decided not to appeal.~~

3878 (4)~~(5)~~ For the purposes of this section, the term:

3879 (a) "Proceeds" means all tax or fee revenue collected or
3880 received by the department, including interest and penalties.

3881 (b) "Reallocate" means reduction of the accounts of initial
3882 deposit and redeposit into the indicated account.

3883 (5)~~(6)~~ Distribution of all proceeds under this chapter and
3884 s. 202.18(1)(b) and (2)(b) shall be as follows:

3885 (a) Proceeds from the convention development taxes
3886 authorized under s. 212.0305 shall be reallocated to the

7-00085-12

2012430

3887 Convention Development Tax Clearing Trust Fund.

3888 (b) Proceeds from discretionary sales surtaxes imposed
3889 pursuant to ss. 212.054 and 212.055 shall be reallocated to the
3890 Discretionary Sales Surtax Clearing Trust Fund.

3891 (c) Proceeds from the fees imposed under ss. 212.05(1)(h)3.
3892 and 212.18(3) shall remain with the General Revenue Fund.

3893 (d) The proceeds of all other taxes and fees imposed
3894 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
3895 and (2)(b) shall be distributed as follows:

3896 1. In any fiscal year, the greater of \$500 million, minus
3897 an amount equal to 4.6 percent of the proceeds of the taxes
3898 collected pursuant to chapter 201, or 5.2 percent of all other
3899 taxes and fees imposed pursuant to this chapter or remitted
3900 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in
3901 monthly installments into the General Revenue Fund.

3902 2. After the distribution under subparagraph 1., 8.814
3903 percent of the amount remitted by a sales tax dealer located
3904 within a participating county pursuant to s. 218.61 shall be
3905 transferred into the Local Government Half-cent Sales Tax
3906 Clearing Trust Fund. Beginning July 1, 2003, the amount to be
3907 transferred shall be reduced by 0.1 percent, and the department
3908 shall distribute this amount to the Public Employees Relations
3909 Commission Trust Fund less \$5,000 each month, which shall be
3910 added to the amount calculated in subparagraph 3. and
3911 distributed accordingly. Beginning January 1, 2013, the amount
3912 to be transferred pursuant to this subparagraph to the Local
3913 Government Half-cent Sales Tax Trust Fund shall be reduced each
3914 fiscal year by an amount determined by the Revenue Estimating
3915 Conference for implementation of the Streamlined Sales and Use

7-00085-12

2012430

3916 Tax Agreement in this state and that amount shall remain with
3917 the General Revenue Fund. The Revenue Estimating Conference
3918 shall determine the impact of implementation of the Streamlined
3919 Sales and Use Tax Agreement by October 1, 2012.

3920 3. After the distribution under subparagraphs 1. and 2.,
3921 0.095 percent shall be transferred to the Local Government Half-
3922 cent Sales Tax Clearing Trust Fund and distributed pursuant to
3923 s. 218.65.

3924 4. After the distributions under subparagraphs 1., 2., and
3925 3., 2.0440 percent of the available proceeds shall be
3926 transferred monthly to the Revenue Sharing Trust Fund for
3927 Counties pursuant to s. 218.215.

3928 5. After the distributions under subparagraphs 1., 2., and
3929 3., 1.3409 percent of the available proceeds shall be
3930 transferred monthly to the Revenue Sharing Trust Fund for
3931 Municipalities pursuant to s. 218.215. If the total revenue to
3932 be distributed pursuant to this subparagraph is at least as
3933 great as the amount due from the Revenue Sharing Trust Fund for
3934 Municipalities and the former Municipal Financial Assistance
3935 Trust Fund in state fiscal year 1999-2000, no municipality shall
3936 receive less than the amount due from the Revenue Sharing Trust
3937 Fund for Municipalities and the former Municipal Financial
3938 Assistance Trust Fund in state fiscal year 1999-2000. If the
3939 total proceeds to be distributed are less than the amount
3940 received in combination from the Revenue Sharing Trust Fund for
3941 Municipalities and the former Municipal Financial Assistance
3942 Trust Fund in state fiscal year 1999-2000, each municipality
3943 shall receive an amount proportionate to the amount it was due
3944 in state fiscal year 1999-2000.

7-00085-12

2012430

3945 6. Of the remaining proceeds:

3946 a. In each fiscal year, the sum of \$29,915,500 shall be
3947 divided into as many equal parts as there are counties in the
3948 state, and one part shall be distributed to each county. The
3949 distribution among the several counties must begin each fiscal
3950 year on or before January 5th and continue monthly for a total
3951 of 4 months. If a local or special law required that any moneys
3952 accruing to a county in fiscal year 1999-2000 under the then-
3953 existing provisions of s. 550.135 be paid directly to the
3954 district school board, special district, or a municipal
3955 government, such payment must continue until the local or
3956 special law is amended or repealed. The state covenants with
3957 holders of bonds or other instruments of indebtedness issued by
3958 local governments, special districts, or district school boards
3959 before July 1, 2000, that it is not the intent of this
3960 subparagraph to adversely affect the rights of those holders or
3961 relieve local governments, special districts, or district school
3962 boards of the duty to meet their obligations as a result of
3963 previous pledges or assignments or trusts entered into which
3964 obligated funds received from the distribution to county
3965 governments under then-existing s. 550.135. This distribution
3966 specifically is in lieu of funds distributed under s. 550.135
3967 before July 1, 2000.

3968 b. The department shall distribute \$166,667 monthly
3969 pursuant to s. 288.1162 to each applicant certified as a
3970 facility for a new or retained professional sports franchise
3971 pursuant to s. 288.1162. Up to \$41,667 shall be distributed
3972 monthly by the department to each certified applicant as defined
3973 in s. 288.11621 for a facility for a spring training franchise.

7-00085-12

2012430__

3974 However, not more than \$416,670 may be distributed monthly in
3975 the aggregate to all certified applicants for facilities for
3976 spring training franchises. Distributions begin 60 days after
3977 such certification and continue for not more than 30 years,
3978 except as otherwise provided in s. 288.11621. A certified
3979 applicant identified in this sub-subparagraph may not receive
3980 more in distributions than expended by the applicant for the
3981 public purposes provided for in s. 288.1162(5) or s.
3982 288.11621(3).

3983 c. Beginning 30 days after notice by the Department of
3984 Economic Opportunity to the Department of Revenue that an
3985 applicant has been certified as the professional golf hall of
3986 fame pursuant to s. 288.1168 and is open to the public, \$166,667
3987 shall be distributed monthly, for up to 300 months, to the
3988 applicant.

3989 d. Beginning 30 days after notice by the Department of
3990 Economic Opportunity to the Department of Revenue that the
3991 applicant has been certified as the International Game Fish
3992 Association World Center facility pursuant to s. 288.1169, and
3993 the facility is open to the public, \$83,333 shall be distributed
3994 monthly, for up to 168 months, to the applicant. This
3995 distribution is subject to reduction pursuant to s. 288.1169. A
3996 lump sum payment of \$999,996 shall be made, after certification
3997 and before July 1, 2000.

3998 7. All other proceeds must remain in the General Revenue
3999 Fund.

4000 Section 20. Section 213.052, Florida Statutes, is created
4001 to read:

4002 213.052 Notice of state sales and use tax rate changes.-

7-00085-12

2012430__

4003 (1) A sales or use tax rate change imposed under chapter
4004 212 is effective on January 1, April 1, July 1, or October 1.
4005 The Department of Revenue shall provide notice of the rate
4006 change to all affected dealers at least 60 days before the
4007 effective date of the rate change. In addition to other methods,
4008 the department may use telephone, electronic mail, facsimile, or
4009 other electronic means to provide notice.

4010 (2) Failure of a dealer to receive notice does not relieve
4011 the dealer of its obligation to collect sales or use tax.

4012 Section 21. Section 213.0521, Florida Statutes, is created
4013 to read:

4014 213.0521 Effective date of state sales and use tax rate
4015 changes.—The effective date for services covering a period
4016 starting before and ending after the statutory effective date is
4017 as follows:

4018 (1) For a rate increase, the new rate applies to the first
4019 billing period starting on or after the effective date.

4020 (2) For a rate decrease, the new rate applies to bills
4021 rendered on or after the effective date.

4022 Section 22. Section 213.215, Florida Statutes, is created
4023 to read:

4024 213.215 Sales and use tax amnesty upon registration in
4025 accordance with Streamlined Sales and Use Tax Agreement.—

4026 (1) Amnesty shall be provided for uncollected or unpaid
4027 sales or use tax to a seller who registers to pay or to collect
4028 and remit applicable sales or use tax in accordance with the
4029 terms of the Streamlined Sales and Use Tax Agreement authorized
4030 under s. 213.256 if the seller was not registered with the
4031 Department of Revenue in the 12-month period preceding the

7-00085-12

2012430

4032 effective date of participation in the agreement by this state.

4033 (2) The amnesty precludes assessment for uncollected or
4034 unpaid sales or use tax, together with penalty or interest for
4035 sales made during the period the seller was not registered with
4036 the Department of Revenue, if registration occurs within 12
4037 months after the effective date of this state's participation in
4038 the agreement.

4039 (3) The amnesty is not available to a seller with respect
4040 to any matter for which the seller received notice of the
4041 commencement of an audit if the audit is not yet finally
4042 resolved, including any related administrative and judicial
4043 processes.

4044 (4) The amnesty is not available for sales or use taxes
4045 already paid or remitted to the state or to taxes collected by
4046 the seller.

4047 (5) The amnesty is fully effective, absent the seller's
4048 fraud or intentional misrepresentation of a material fact, as
4049 long as the seller continues registration and continues payment
4050 or collection and remittance of applicable sales or use taxes
4051 for at least 36 months.

4052 (6) The amnesty applies only to sales or use taxes due from
4053 a seller in its capacity as a seller and not to sales or use
4054 taxes due from a seller in its capacity as a purchaser.

4055 Section 23. Subsections (1) and (2) of section 213.256,
4056 Florida Statutes, are amended to read:

4057 213.256 Simplified Sales and Use Tax Administration Act.—

4058 (1) As used in this section and s. 213.2567, the term:

4059 (a) "Agent" means, for purposes of carrying out the
4060 responsibilities placed on a dealer, a person appointed by the

7-00085-12

2012430

4061 dealer to represent the dealer before the department.

4062 ~~"Department" means the Department of Revenue.~~

4063 (b) "Agreement" means the Streamlined Sales and Use Tax
4064 Agreement ~~as amended and adopted on January 27, 2001, by the~~
4065 ~~Executive Committee of the National Conference of State~~
4066 ~~Legislatures.~~

4067 (c) "Certified automated system" means software certified
4068 ~~jointly by the state states that are signatories to the~~
4069 ~~agreement~~ to calculate the tax imposed by each jurisdiction on a
4070 transaction, determine the amount of tax to remit to the
4071 appropriate state, and maintain a record of the transaction.

4072 (d) "Certified service provider" means an agent certified
4073 ~~jointly by the states that are signatories to the agreement~~ to
4074 perform all of the dealer's seller's sales tax functions other
4075 than the dealer's obligation to remit tax on its own purchases.

4076 (e) "Dealer" means any person making sales, leases, or
4077 rentals of personal property or services.

4078 (f) "Department" means the Department of Revenue.

4079 (g) "Governing board" means the governing board overseeing
4080 an agreement with other states to conform the sales and use tax
4081 laws of this state to the terms of the agreement.

4082 (h)1. "Model 1 seller" means a dealer who has selected a
4083 certified service provider as the dealer's agent to perform all
4084 of the dealer's sales and use tax functions other than the
4085 dealer's obligation to remit tax on the dealer's purchases.

4086 2. "Model 2 seller" means a dealer who has selected a
4087 certified automated system to perform part of the dealer's sales
4088 and use tax functions, but retains responsibility for remitting
4089 the tax.

7-00085-12

2012430__

4090 3. "Model 3 seller" means a dealer who has sales in at
4091 least five member states, has total annual sales revenue of at
4092 least \$500 million, has a proprietary system that calculates the
4093 amount of tax due each jurisdiction, and has entered into a
4094 performance agreement with the member states which establishes a
4095 tax performance standard for the dealer. As used in this
4096 subparagraph, a dealer includes an affiliated group of dealers
4097 using the same proprietary system.

4098 4. "Model 4 seller" means a dealer who is registered under
4099 the agreement and is not a model 1, model 2, or model 3 seller.

4100 (i)~~(e)~~ "Person" means an individual, trust, estate,
4101 fiduciary, partnership, limited liability company, limited
4102 liability partnership, corporation, or any other legal entity.

4103 (j) "Registered under this agreement" means registration by
4104 a dealer with the member states under the central registration
4105 system.

4106 (k)~~(f)~~ "Sales tax" means the tax levied under chapter 212.

4107 ~~(g) "Seller" means any person making sales, leases, or~~
4108 ~~rentals of personal property or services.~~

4109 (l)~~(h)~~ "State" means any state of the United States and the
4110 District of Columbia.

4111 (m)~~(i)~~ "Use tax" means the tax levied under chapter 212.

4112 (2) (a) The executive director of the department is
4113 authorized to shall enter into the agreement ~~the Streamlined~~
4114 ~~Sales and Use Tax Agreement~~ with one or more states to simplify
4115 and modernize sales and use tax administration in order to
4116 substantially reduce the burden of tax compliance for all
4117 dealers ~~sellers~~ and for all types of commerce. In furtherance of
4118 the agreement, the executive director of the department or his

7-00085-12

2012430

4119 or her designee shall act jointly with other states that are
4120 members of the agreement to establish standards for
4121 certification of a certified service provider and certified
4122 automated systems ~~system~~ and central registration systems
4123 ~~establish performance standards for multistate sellers.~~

4124 (b) The executive director of the department or his or her
4125 designee shall take other actions reasonably required to
4126 administer this section. Other actions authorized by this
4127 section include, but are not limited to, the adoption of rules
4128 and the joint procurement, with other member states, of goods
4129 and services in furtherance of the cooperative agreement.

4130 (c) The executive director of the department or his or her
4131 designee may represent this state before the other states that
4132 are signatories to the agreement.

4133 (d) The executive director of the department or his or her
4134 designee is authorized to prepare and submit from time to time
4135 reports and certifications that are determined necessary
4136 according to the terms of an agreement and to enter into other
4137 agreements with the governing board, member states, and service
4138 providers which the executive director determines will
4139 facilitate the administration of the tax laws of this state.

4140 Section 24. Section 213.2562, Florida Statutes, is created
4141 to read:

4142 213.2562 Approval of software to calculate tax.—The
4143 department shall review software submitted to the governing
4144 board for certification as an automated system. If the software
4145 accurately reflects the taxability of product categories
4146 included in the program, the department shall certify the
4147 approval of the software to the governing board.

7-00085-12

2012430__

4148 Section 25. Section 213.2567, Florida Statutes, is created
4149 to read:

4150 213.2567 Simplified sales and use tax registration;
4151 certification; liability; and audit.-

4152 (1) A dealer who registers under the agreement agrees to
4153 collect and remit sales and use taxes for all taxable sales into
4154 the member states, including member states joining after the
4155 dealer's registration. Withdrawal or revocation of this state
4156 does not relieve a dealer of its responsibility to remit taxes
4157 previously or subsequently collected on behalf of the state.

4158 (a) When registering, the dealer may select a model 1,
4159 model 2, or model 3 method of remittance or another method
4160 allowed by state law to remit the taxes collected.

4161 (b) A model 2, model 3, or model 4 seller may register in
4162 this state as a seller that does not anticipate having any sales
4163 in this state if the seller did not have any sales in this state
4164 within the 12 months preceding registration. However, the seller
4165 retains the obligation to collect and remit sales and use tax on
4166 any sale made into this state.

4167 (c) A dealer may be registered by an agent. This
4168 registration must be in writing and submitted to a member state.

4169 (2) (a) A model 1 seller is liable for any sales and use
4170 tax, penalty, and interest due this state. A certified service
4171 provider is the agent of a model 1 seller with whom the
4172 certified service provider has contracted for the collection and
4173 remittance of sales and use taxes. As the model 1 seller's
4174 agent, the certified service provider is jointly and severally
4175 liable with the model 1 seller for sales and use tax, penalty,
4176 and interest due this state on all sales transactions it

7-00085-12

2012430__

4177 processes for the model 1 seller.

4178 (b) A member state may audit model 1 sellers and certified
4179 service providers pursuant to this chapter and chapter 212.

4180 Member states may jointly audit certified service providers.

4181 (3) A model 2 seller that uses a certified automated system
4182 remains responsible and is liable to this state for reporting
4183 and remitting tax. However, a model 2 seller is not responsible
4184 for errors in reliance on a certified automated system.

4185 (4) A model 3 seller is liable for the failure of the
4186 proprietary system to meet the performance standard.

4187 (5) A person who provides a certified automated system is
4188 not liable for errors contained in software that was approved by
4189 the department and certified to the governing board. However,
4190 such person is:

4191 (a) Responsible for the proper functioning of that system;

4192 (b) Liable to this state for underpayments of tax
4193 attributable to errors in the functioning of the certified
4194 automated system; and

4195 (c) Liable for the misclassification of an item or
4196 transaction that is not corrected within 10 days following the
4197 receipt of notice from the department.

4198 (6) The executive director of the department, or his or her
4199 designee, may certify a person as a certified service provider
4200 if the person:

4201 (a) Uses a certified automated system;

4202 (b) Integrates its certified automated system with the
4203 system of a dealer for whom the person collects tax so that the
4204 tax due on a sale is determined at the time of the sale;

4205 (c) Agrees to remit the taxes it collects at the time and

7-00085-12

2012430__

4206 in the manner specified by chapter 212;
4207 (d) Agrees to file returns on behalf of the dealers for
4208 whom the person collects tax;
4209 (e) Agrees to protect the privacy of tax information the
4210 person obtains in accordance with s. 213.053; and
4211 (f) Enters into a written agreement with the department
4212 concerning the disclosure of information and agrees to comply
4213 with the terms of the written agreement.
4214 (7) The department shall review software submitted to the
4215 governing board for certification as a certified automated
4216 system. The executive director of the department shall certify
4217 the approval of the software to the governing board if the
4218 software:
4219 (a) Determines the applicable state and local sales and use
4220 tax rate for a transaction in accordance with s. 212.06(3) and
4221 (4);
4222 (b) Correctly determines whether an item is exempt from
4223 tax;
4224 (c) Correctly determines the amount of tax to be remitted
4225 for each taxpayer for a reporting period; and
4226 (d) Can generate reports and returns as required by the
4227 governing board.
4228 (8) The department may by rule establish one or more sales
4229 tax performance standards for model 3 sellers.
4230 (9) Disclosure of information necessary under this section
4231 must be made according to a written agreement between the
4232 executive director of the department or his or her designee and
4233 the certified service provider. The certified service provider
4234 is bound by the same requirements of confidentiality as the

7-00085-12

2012430__

4235 department employees. Breach of confidentiality is a misdemeanor
4236 of the first degree, punishable as provided in s. 775.082 or s.
4237 775.083.

4238 Section 26. The executive director of the Department of
4239 Revenue may adopt emergency rules to implement this act.
4240 Notwithstanding any other law, the emergency rules shall remain
4241 effective for 6 months after the date of adoption and may be
4242 renewed during the pendency of procedures to adopt rules
4243 addressing the subject of the emergency rules.

4244 Section 27. The President of the Senate and the Speaker of
4245 the House of Representatives shall create a joint select
4246 committee to study alternatives for the modernization,
4247 simplification, and streamlining of the various taxes in this
4248 state, including, but not limited to, issues such as further
4249 simplification of the communications services tax. The committee
4250 shall also study how sales and use tax exemptions may be used to
4251 encourage economic development and how this state's corporate
4252 income tax may be revised to ensure fairness to all businesses.

4253 Section 28. Paragraph (a) of subsection (5) of section
4254 11.45, Florida Statutes, is amended to read:

4255 11.45 Definitions; duties; authorities; reports; rules.—

4256 (5) PETITION FOR AN AUDIT BY THE AUDITOR GENERAL.—

4257 (a) The Legislative Auditing Committee shall direct the
4258 Auditor General to make an audit of any municipality whenever
4259 petitioned to do so by at least 20 percent of the registered
4260 electors in the last general election of that municipality
4261 pursuant to this subsection. The supervisor of elections of the
4262 county in which the municipality is located shall certify
4263 whether or not the petition contains the signatures of at least

7-00085-12

2012430__

4264 20 percent of the registered electors of the municipality. After
4265 the completion of the audit, the Auditor General shall determine
4266 whether the municipality has the fiscal resources necessary to
4267 pay the cost of the audit. The municipality shall pay the cost
4268 of the audit within 90 days after the Auditor General's
4269 determination that the municipality has the available resources.
4270 If the municipality fails to pay the cost of the audit, the
4271 Department of Revenue shall, upon certification of the Auditor
4272 General, withhold from that portion of the distribution pursuant
4273 to s. 212.20(5)(d)5. ~~s. 212.20(6)(d)5.~~ which is distributable to
4274 such municipality, a sum sufficient to pay the cost of the audit
4275 and shall deposit that sum into the General Revenue Fund of the
4276 state.

4277 Section 29. Subsection (6) of section 196.012, Florida
4278 Statutes, is amended to read:

4279 196.012 Definitions.—For the purpose of this chapter, the
4280 following terms are defined as follows, except where the context
4281 clearly indicates otherwise:

4282 (6) Governmental, municipal, or public purpose or function
4283 shall be deemed to be served or performed when the lessee under
4284 any leasehold interest created in property of the United States,
4285 the state or any of its political subdivisions, or any
4286 municipality, agency, special district, authority, or other
4287 public body corporate of the state is demonstrated to perform a
4288 function or serve a governmental purpose that ~~which~~ could
4289 properly be performed or served by an appropriate governmental
4290 unit or that ~~which~~ is demonstrated to perform a function or
4291 serve a purpose that ~~which~~ would otherwise be a valid subject
4292 for the allocation of public funds. For purposes of the

7-00085-12

2012430

4293 preceding sentence, an activity undertaken by a lessee which is
4294 permitted under the terms of its lease of real property
4295 designated as an aviation area on an airport layout plan that
4296 ~~which~~ has been approved by the Federal Aviation Administration
4297 and which real property is used for the administration,
4298 operation, business offices and activities related specifically
4299 thereto in connection with the conduct of an aircraft full-
4300 service, fixed-base ~~full service fixed base~~ operation that ~~which~~
4301 provides goods and services to the general aviation public in
4302 the promotion of air commerce shall be deemed an activity that
4303 ~~which~~ serves a governmental, municipal, or public purpose or
4304 function. Any activity undertaken by a lessee which is permitted
4305 under the terms of its lease of real property designated as a
4306 public airport as defined in s. 332.004(14) by municipalities,
4307 agencies, special districts, authorities, or other public bodies
4308 corporate and public bodies politic of the state, a spaceport as
4309 defined in s. 331.303, or which is located in a deepwater port
4310 identified in s. 403.021(9)(b) and owned by one of the foregoing
4311 governmental units, subject to a leasehold or other possessory
4312 interest of a nongovernmental lessee that is deemed to perform
4313 an aviation, airport, aerospace, maritime, or port purpose or
4314 operation shall be deemed an activity that serves a
4315 governmental, municipal, or public purpose. The use by a lessee,
4316 licensee, or management company of real property or a portion
4317 thereof as a convention center, visitor center, sports facility
4318 with permanent seating, concert hall, arena, stadium, park, or
4319 beach is deemed a use that serves a governmental, municipal, or
4320 public purpose or function when access to the property is open
4321 to the general public with or without a charge for admission. If

7-00085-12

2012430__

4322 property deeded to a municipality by the United States is
4323 subject to a requirement that the Federal Government, through a
4324 schedule established by the Secretary of the Interior, determine
4325 that the property is being maintained for public historic
4326 preservation, park, or recreational purposes and if those
4327 conditions are not met the property will revert back to the
4328 Federal Government, then such property shall be deemed to serve
4329 a municipal or public purpose. The term "governmental purpose"
4330 also includes a direct use of property on federal lands in
4331 connection with the Federal Government's Space Exploration
4332 Program or spaceport activities as defined in s. 212.02 ~~s.~~
4333 ~~212.02(22)~~. Real property and tangible personal property owned
4334 by the Federal Government or Space Florida and used for defense
4335 and space exploration purposes or which is put to a use in
4336 support thereof shall be deemed to perform an essential national
4337 governmental purpose and shall be exempt. "Owned by the lessee"
4338 as used in this chapter does not include personal property,
4339 buildings, or other real property improvements used for the
4340 administration, operation, business offices and activities
4341 related specifically thereto in connection with the conduct of
4342 an aircraft full-service, fixed-base ~~full-service fixed based~~
4343 operation that ~~which~~ provides goods and services to the general
4344 aviation public in the promotion of air commerce, provided that
4345 the real property is designated as an aviation area on an
4346 airport layout plan approved by the Federal Aviation
4347 Administration. For purposes of determination of "ownership,"
4348 buildings and other real property improvements that ~~which~~ will
4349 revert to the airport authority or other governmental unit upon
4350 expiration of the term of the lease shall be deemed "owned" by

7-00085-12

2012430__

4351 the governmental unit and not the lessee. Providing two-way
4352 telecommunications services to the public for hire by the use of
4353 a telecommunications facility, as defined in s. 364.02 ~~s.~~
4354 ~~364.02(14)~~, and for which a certificate is required under
4355 chapter 364 does not constitute an exempt use for purposes of s.
4356 196.199, unless the telecommunications services are provided by
4357 the operator of a public-use airport, as defined in s. 332.004,
4358 for the operator's provision of telecommunications services for
4359 the airport or its tenants, concessionaires, or licensees, or
4360 unless the telecommunications services are provided by a public
4361 hospital.

4362 Section 30. Paragraph (b) of subsection (1) and paragraph
4363 (b) of subsection (2) of section 202.18, Florida Statutes, are
4364 amended to read:

4365 202.18 Allocation and disposition of tax proceeds.—The
4366 proceeds of the communications services taxes remitted under
4367 this chapter shall be treated as follows:

4368 (1) The proceeds of the taxes remitted under s.
4369 202.12(1)(a) shall be divided as follows:

4370 (b) The remaining portion shall be distributed according to
4371 s. 212.20(5) ~~s. 212.20(6)~~.

4372 (2) The proceeds of the taxes remitted under s.
4373 202.12(1)(b) shall be divided as follows:

4374 (b) Sixty-three percent of the remainder shall be allocated
4375 to the state and distributed pursuant to s. 212.20(5)(d)2. ~~s.~~
4376 ~~212.20(6)~~, except that the proceeds allocated pursuant to s.
4377 212.20(5)(d)2. ~~s. 212.20(6)(d)2.~~ shall be prorated to the
4378 participating counties in the same proportion as that month's
4379 collection of the taxes and fees imposed pursuant to chapter 212

7-00085-12

2012430__

4380 and paragraph (1) (b) .

4381 Section 31. Paragraphs (f), (g), (h), and (i) of subsection
4382 (1) of section 203.01, Florida Statutes, are amended to read:

4383 203.01 Tax on gross receipts for utility and communications
4384 services.—

4385 (1)

4386 (f) Any person who imports into this state electricity,
4387 natural gas, or manufactured gas, or severs natural gas, for
4388 that person's own use or consumption as a substitute for
4389 purchasing utility, transportation, or delivery services taxable
4390 under this chapter and who cannot demonstrate payment of the tax
4391 imposed by this chapter must register with the Department of
4392 Revenue and pay into the State Treasury each month an amount
4393 equal to the cost price of such electricity, natural gas, or
4394 manufactured gas times the rate set forth in paragraph (b),
4395 reduced by the amount of any like tax lawfully imposed on and
4396 paid by the person from whom the electricity, natural gas, or
4397 manufactured gas was purchased or any person who provided
4398 delivery service or transportation service in connection with
4399 the electricity, natural gas, or manufactured gas. For purposes
4400 of this paragraph, the term "cost price" has the meaning
4401 ascribed in s. 212.02 ~~s. 212.02(4)~~. The methods of demonstrating
4402 proof of payment and the amount of such reductions in tax shall
4403 be made according to rules of the Department of Revenue.

4404 (g) Electricity produced by cogeneration or by small power
4405 producers which is transmitted and distributed by a public
4406 utility between two locations of a customer of the utility
4407 pursuant to s. 366.051 is subject to the tax imposed by this
4408 section. The tax shall be applied to the cost price of such

7-00085-12

2012430__

4409 electricity as provided in s. 212.02 ~~s. 212.02(4)~~ and shall be
4410 paid each month by the producer of such electricity.

4411 (h) Electricity produced by cogeneration or by small power
4412 producers during the 12-month period ending June 30 of each year
4413 which is in excess of nontaxable electricity produced during the
4414 12-month period ending June 30, 1990, is subject to the tax
4415 imposed by this section. The tax shall be applied to the cost
4416 price of such electricity as provided in s. 212.02 ~~s. 212.02(4)~~
4417 and shall be paid each month, beginning with the month in which
4418 total production exceeds the production of nontaxable
4419 electricity for the 12-month period ending June 30, 1990. For
4420 purposes of this paragraph, "nontaxable electricity" means
4421 electricity produced by cogeneration or by small power producers
4422 which is not subject to tax under paragraph (g). Taxes paid
4423 pursuant to paragraph (g) may be credited against taxes due
4424 under this paragraph. Electricity generated as part of an
4425 industrial manufacturing process that ~~which~~ manufactures
4426 products from phosphate rock, raw wood fiber, paper, citrus, or
4427 any agricultural product shall not be subject to the tax imposed
4428 by this paragraph. "Industrial manufacturing process" means the
4429 entire process conducted at the location where the process takes
4430 place.

4431 (i) Any person other than a cogenerator or small power
4432 producer described in paragraph (h) who produces for his or her
4433 own use electrical energy that ~~which~~ is a substitute for
4434 electrical energy produced by an electric utility as defined in
4435 s. 366.02 is subject to the tax imposed by this section. The tax
4436 shall be applied to the cost price of such electrical energy as
4437 provided in s. 212.02 ~~s. 212.02(4)~~ and shall be paid each month.

7-00085-12

2012430

4438 The provisions of this paragraph do not apply to any electrical
4439 energy produced and used by an electric utility.

4440 Section 32. Subsection (1) of section 212.052, Florida
4441 Statutes, is amended to read:

4442 212.052 Research or development costs; exemption.—

4443 (1) For the purposes of the exemption provided in this
4444 section:

4445 (a) The term "research or development" means research that
4446 ~~which~~ has one of the following as its ultimate goal:

4447 1. Basic research in a scientific field of endeavor.

4448 2. Advancing knowledge or technology in a scientific or
4449 technical field of endeavor.

4450 3. The development of a new product, whether or not the new
4451 product is offered for sale.

4452 4. The improvement of an existing product, whether or not
4453 the improved product is offered for sale.

4454 5. The development of new uses of an existing product,
4455 whether or not a new use is offered as a rationale to purchase
4456 the product.

4457 6. The design and development of prototypes, whether or not
4458 a resulting product is offered for sale.

4459

4460 The term "research or development" does not include ordinary
4461 testing or inspection of materials or products used for quality
4462 control, market research, efficiency surveys, consumer surveys,
4463 advertising and promotions, management studies, or research in
4464 connection with literary, historical, social science,
4465 psychological, or other similar nontechnical activities.

4466 (b) The term "costs" means cost price as defined in s.

7-00085-12

2012430__

4467 212.02 ~~s. 212.02(4)~~.

4468 (c) The term "product" means any item, device, technique,
4469 prototype, invention, or process that ~~which~~ is, was, or may be
4470 commercially exploitable.

4471 Section 33. Section 212.081, Florida Statutes, is amended
4472 to read:

4473 212.081 Legislative intent.—It is hereby declared to be the
4474 legislative intent of the amendments to ss. 212.11(1)~~7~~
4475 ~~212.12(10)~~~~7~~, and 212.20 by chapter 57-398, Laws of Florida:

4476 (1) To aid in the enforcement of this chapter by
4477 recognizing the effect of court rulings involving such
4478 enforcement and to incorporate herein substantial rulings of the
4479 department which have been recognized as necessary to supplement
4480 the interpretation of some of the terms used in this section.

4481 (2) To arrange the exemptions allowed in this section in
4482 more orderly categories thereby eliminating some of the
4483 confusion attendant upon the present arrangement where cross-
4484 exemptions frequently occur.

4485 (a) It is further declared to be the legislative intent
4486 that the tax levied by this chapter and imposed by this section
4487 is not a tax on motor vehicles as property but a tax on the
4488 privilege to sell, to rent, to use or to store for use in this
4489 state motor vehicles; that such tax is separate from and in
4490 addition to any license tax imposed on motor vehicles; and that
4491 such tax is not intended as an ad valorem tax on motor vehicles
4492 as prohibited by the Constitution.

4493 (b) It is also the legislative intent that there shall be
4494 no pyramiding or duplication of excise taxes levied by the state
4495 under this chapter and no municipality shall levy any excise tax

7-00085-12

2012430__

4496 upon any privilege, admission, lease, rental, sale, use or
4497 storage for use or consumption which is subject to a tax under
4498 this chapter unless permitted by general law; provided, however,
4499 that this provision shall not impair valid municipal ordinances
4500 which are in effect and under which a municipal tax is being
4501 levied and collected on July 1, 1957.

4502 (3) It is hereby declared to be the legislative intent that
4503 all purchases made by banks are subject to state sales tax in
4504 the same manner as is provided by law for all other purchasers.
4505 It is further declared to be the legislative intent that if for
4506 any reason the sales tax on federal banks is declared invalid,
4507 that sales tax shall not apply or be applicable to purchases
4508 made by state banks.

4509 Section 34. Subsection (3) of section 212.13, Florida
4510 Statutes, is amended to read:

4511 212.13 Records required to be kept; power to inspect; audit
4512 procedure.—

4513 (3) For the purpose of enforcement of this chapter, every
4514 manufacturer and seller of tangible personal property or
4515 services licensed within this state is required to permit the
4516 department to examine his or her books and records at all
4517 reasonable hours, and, upon his or her refusal, the department
4518 may require him or her to permit such examination by resort to
4519 the circuit courts of this state, subject however to the right
4520 of removal of the cause to the judicial circuit wherein such
4521 person's business is located or wherein such person's books and
4522 records are kept, provided further that such person's books and
4523 records are kept within the state. When the dealer has made an
4524 allocation or attribution pursuant to the definition of sales

7-00085-12

2012430__

4525 price in s. 212.02 ~~s. 212.02(16)~~, the department may prescribe
4526 by rule the books and records that must be made available during
4527 an audit of the dealer's books and records and examples of
4528 methods for determining the reasonableness thereof. Books and
4529 records kept in the regular course of business include, but are
4530 not limited to, general ledgers, price lists, cost records,
4531 customer billings, billing system reports, tariffs, and other
4532 regulatory filings and rules of regulatory authorities. Such
4533 record may be required to be made available to the department in
4534 an electronic format when so kept by the dealer. The dealer may
4535 support the allocation of charges with books and records kept in
4536 the regular course of business covering the dealer's entire
4537 service area, including territories outside this state. During
4538 an audit, the department may reasonably require production of
4539 any additional books and records found necessary to assist in
4540 its determination.

4541 Section 35. Subsection (3) of section 218.245, Florida
4542 Statutes, is amended to read:

4543 218.245 Revenue sharing; apportionment.—

4544 (3) Revenues attributed to the increase in distribution to
4545 the Revenue Sharing Trust Fund for Municipalities pursuant to s.
4546 212.20(5)(d)5. ~~s. 212.20(6)(d)5.~~ from 1.0715 percent to 1.3409
4547 percent provided in chapter 2003-402, Laws of Florida, shall be
4548 distributed to each eligible municipality and any unit of local
4549 government that is consolidated as provided by s. 9, Art. VIII
4550 of the State Constitution of 1885, as preserved by s. 6(e), Art.
4551 VIII, 1968 revised constitution, as follows: each eligible local
4552 government's allocation shall be based on the amount it received
4553 from the half-cent sales tax under s. 218.61 in the prior state

7-00085-12

2012430__

4554 fiscal year divided by the total receipts under s. 218.61 in the
 4555 prior state fiscal year for all eligible local governments.
 4556 However, for the purpose of calculating this distribution, the
 4557 amount received from the half-cent sales tax under s. 218.61 in
 4558 the prior state fiscal year by a unit of local government which
 4559 is consolidated as provided by s. 9, Art. VIII of the State
 4560 Constitution of 1885, as amended, and as preserved by s. 6(e),
 4561 Art. VIII, of the Constitution as revised in 1968, shall be
 4562 reduced by 50 percent for such local government and for the
 4563 total receipts. For eligible municipalities that began
 4564 participating in the allocation of half-cent sales tax under s.
 4565 218.61 in the previous state fiscal year, their annual receipts
 4566 shall be calculated by dividing their actual receipts by the
 4567 number of months they participated, and the result multiplied by
 4568 12.

4569 Section 36. Subsections (5), (6), and (7) of section
 4570 218.65, Florida Statutes, are amended to read:

4571 218.65 Emergency distribution.—

4572 (5) At the beginning of each fiscal year, the Department of
 4573 Revenue shall calculate a base allocation for each eligible
 4574 county equal to the difference between the current per capita
 4575 limitation times the county's population, minus prior year
 4576 ordinary distributions to the county pursuant to ss.
 4577 212.20(5)(d)2., 218.61, and 218.62 ~~ss. 212.20(6)(d)2., 218.61,~~
 4578 ~~and 218.62.~~ If moneys deposited into the Local Government Half-
 4579 cent Sales Tax Clearing Trust Fund pursuant to s. 212.20(5)(d)3.
 4580 ~~s. 212.20(6)(d)3.,~~ excluding moneys appropriated for
 4581 supplemental distributions pursuant to subsection (8), for the
 4582 current year are less than or equal to the sum of the base

7-00085-12

2012430

4583 allocations, each eligible county shall receive a share of the
4584 appropriated amount proportional to its base allocation. If the
4585 deposited amount exceeds the sum of the base allocations, each
4586 county shall receive its base allocation, and the excess
4587 appropriated amount, less any amounts distributed under
4588 subsection (6), shall be distributed equally on a per capita
4589 basis among the eligible counties.

4590 (6) If moneys deposited in the Local Government Half-cent
4591 Sales Tax Clearing Trust Fund pursuant to s. 212.20(5)(d)3. ~~s.~~
4592 ~~212.20(6)(d)3.~~ exceed the amount necessary to provide the base
4593 allocation to each eligible county, the moneys in the trust fund
4594 may be used to provide a transitional distribution, as specified
4595 in this subsection, to certain counties whose population has
4596 increased. The transitional distribution shall be made available
4597 to each county that qualified for a distribution under
4598 subsection (2) in the prior year but does not, because of the
4599 requirements of paragraph (2)(a), qualify for a distribution in
4600 the current year. Beginning on July 1 of the year following the
4601 year in which the county no longer qualifies for a distribution
4602 under subsection (2), the county shall receive two-thirds of the
4603 amount received in the prior year, and beginning July 1 of the
4604 second year following the year in which the county no longer
4605 qualifies for a distribution under subsection (2), the county
4606 shall receive one-third of the amount it received in the last
4607 year it qualified for the distribution under subsection (2). If
4608 insufficient moneys are available in the Local Government Half-
4609 cent Sales Tax Clearing Trust Fund to fully provide such a
4610 transitional distribution to each county that meets the
4611 eligibility criteria in this section, each eligible county shall

7-00085-12

2012430__

4612 receive a share of the available moneys proportional to the
4613 amount it would have received had moneys been sufficient to
4614 fully provide such a transitional distribution to each eligible
4615 county.

4616 (7) There is hereby annually appropriated from the Local
4617 Government Half-cent Sales Tax Clearing Trust Fund the
4618 distribution provided in s. 212.20(5)(d)3. ~~s. 212.20(6)(d)3.~~ to
4619 be used for emergency and supplemental distributions pursuant to
4620 this section.

4621 Section 37. Paragraph (q) of subsection (1) of section
4622 288.1045, Florida Statutes, is amended to read:

4623 288.1045 Qualified defense contractor and space flight
4624 business tax refund program.—

4625 (1) DEFINITIONS.—As used in this section:

4626 (q) "Space flight business" means the manufacturing,
4627 processing, or assembly of space flight technology products,
4628 space flight facilities, space flight propulsion systems, or
4629 space vehicles, satellites, or stations of any kind possessing
4630 the capability for space flight, as defined by s. 212.02 ~~s.~~
4631 ~~212.02(23)~~, or components thereof, and includes, in supporting
4632 space flight, vehicle launch activities, flight operations,
4633 ground control or ground support, and all administrative
4634 activities directly related to such activities. The term does
4635 not include products that are designed or manufactured for
4636 general commercial aviation or other uses even if those products
4637 may also serve an incidental use in space flight applications.

4638 Section 38. Paragraphs (a) and (d) of subsection (3) of
4639 section 288.11621, Florida Statutes, are amended to read:

4640 288.11621 Spring training baseball franchises.—

7-00085-12

2012430__

4641 (3) USE OF FUNDS.—

4642 (a) A certified applicant may use funds provided under s.
4643 212.20(5)(d)6.b. ~~s. 212.20(6)(d)6.b.~~ only to:

4644 1. Serve the public purpose of acquiring, constructing,
4645 reconstructing, or renovating a facility for a spring training
4646 franchise.

4647 2. Pay or pledge for the payment of debt service on, or to
4648 fund debt service reserve funds, arbitrage rebate obligations,
4649 or other amounts payable with respect thereto, bonds issued for
4650 the acquisition, construction, reconstruction, or renovation of
4651 such facility, or for the reimbursement of such costs or the
4652 refinancing of bonds issued for such purposes.

4653 3. Assist in the relocation of a spring training franchise
4654 from one unit of local government to another only if the
4655 governing board of the current host local government by a
4656 majority vote agrees to relocation.

4657 (d)1. All certified applicants must place unexpended state
4658 funds received pursuant to s. 212.20(5)(d)6.b. ~~s.~~
4659 ~~212.20(6)(d)6.b.~~ in a trust fund or separate account for use
4660 only as authorized in this section.

4661 2. A certified applicant may request that the Department of
4662 Revenue suspend further distributions of state funds made
4663 available under s. 212.20(5)(d)6.b. ~~s. 212.20(6)(d)6.b.~~ for 12
4664 months after expiration of an existing agreement with a spring
4665 training franchise to provide the certified applicant with an
4666 opportunity to enter into a new agreement with a spring training
4667 franchise, at which time the distributions shall resume.

4668 3. The expenditure of state funds distributed to an
4669 applicant certified before July 1, 2010, must begin within 48

7-00085-12

2012430__

4670 months after the initial receipt of the state funds. In
4671 addition, the construction of, or capital improvements to, a
4672 spring training facility must be completed within 24 months
4673 after the project's commencement.

4674 Section 39. Subsection (6) of section 288.1169, Florida
4675 Statutes, is amended to read:

4676 288.1169 International Game Fish Association World Center
4677 facility.—

4678 (6) The department must recertify every 10 years that the
4679 facility is open, that the International Game Fish Association
4680 World Center continues to be the only international
4681 administrative headquarters, fishing museum, and Hall of Fame in
4682 the United States recognized by the International Game Fish
4683 Association, and that the project is meeting the minimum
4684 projections for attendance or sales tax revenues as required at
4685 the time of original certification. If the facility is not
4686 recertified during this 10-year review as meeting the minimum
4687 projections, then funding shall be abated until certification
4688 criteria are met. If the project fails to generate \$1 million of
4689 annual revenues pursuant to paragraph (2)(e), the distribution
4690 of revenues pursuant to s. 212.20(5)(d)6.b. ~~s. 212.20(6)(d)6.d.~~
4691 shall be reduced to an amount equal to \$83,333 multiplied by a
4692 fraction, the numerator of which is the actual revenues
4693 generated and the denominator of which is \$1 million. Such
4694 reduction remains in effect until revenues generated by the
4695 project in a 12-month period equal or exceed \$1 million.

4696 Section 40. Subsection (8) of section 551.102, Florida
4697 Statutes, is amended to read:

4698 551.102 Definitions.—As used in this chapter, the term:

7-00085-12

2012430__

4699 (8) "Slot machine" means any mechanical or electrical
4700 contrivance, terminal that may or may not be capable of
4701 downloading slot games from a central server system, machine, or
4702 other device that, upon insertion of a coin, bill, ticket,
4703 token, or similar object or upon payment of any consideration
4704 whatsoever, including the use of any electronic payment system
4705 except a credit card or debit card, is available to play or
4706 operate, the play or operation of which, whether by reason of
4707 skill or application of the element of chance or both, may
4708 deliver or entitle the person or persons playing or operating
4709 the contrivance, terminal, machine, or other device to receive
4710 cash, billets, tickets, tokens, or electronic credits to be
4711 exchanged for cash or to receive merchandise or anything of
4712 value whatsoever, whether the payoff is made automatically from
4713 the machine or manually. The term includes associated equipment
4714 necessary to conduct the operation of the contrivance, terminal,
4715 machine, or other device. Slot machines may use spinning reels,
4716 video displays, or both. A slot machine is not a "coin-operated
4717 amusement machine" as defined in s. 212.02 ~~s. 212.02(24)~~ or an
4718 amusement game or machine as described in s. 849.161, and slot
4719 machines are not subject to the tax imposed by s. 212.05(1)(h).

4720 Section 41. Paragraph (a) of subsection (1) of section
4721 790.0655, Florida Statutes, is amended to read:

4722 790.0655 Purchase and delivery of handguns; mandatory
4723 waiting period; exceptions; penalties.—

4724 (1)(a) There shall be a mandatory ~~3-day~~ waiting period,
4725 which shall be 3 days, excluding weekends and legal holidays,
4726 between the purchase and the delivery at retail of any handgun.
4727 "Purchase" means the transfer of money or other valuable

7-00085-12

2012430__

4728 consideration to the retailer. "Handgun" means a firearm capable
4729 of being carried and used by one hand, such as a pistol or
4730 revolver. "Retailer" means and includes every person engaged in
4731 the business of making sales at retail or for distribution, or
4732 use, or consumption, or storage to be used or consumed in this
4733 state, as defined in s. 212.02 ~~s. 212.02(13)~~.

4734 Section 42. Section 212.0596, Florida Statutes, is
4735 repealed.

4736 Section 43. This act shall take effect January 1, 2013.