

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**FINANCE AND TAX**  
**Senator Gainer, Chair**  
**Senator Gruters, Vice Chair**

**MEETING DATE:** Tuesday, April 16, 2019  
**TIME:** 1:00—4:00 p.m.  
**PLACE:** James E. "Jim" King, Jr. Committee Room, 401 Senate Building

**MEMBERS:** Senator Gainer, Chair; Senator Gruters, Vice Chair; Senators Baxley, Bracy, Bradley, Pizzo, Powell, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 1040</b> Community Affairs / Lee (Compare CS/CS/H 5, CS/S 336)	Discretionary Sales Surtaxes; Providing that a referendum to adopt or amend a local discretionary sales surtax must be held at a general election; requiring a county to make the proposed referendum and a specified legal opinion available on its official website; requiring the Office of Program Policy Analysis and Government Accountability, upon receiving a certain notice, to procure a certified public accountant for a performance audit, etc.  CA 03/26/2019 Fav/CS FT 04/16/2019 Favorable AP	Favorable Yeas 7 Nays 1
2	<b>SB 1112</b> Gruters (Compare H 1377, H 7123, CS/S 1412, S 1642)	Taxation; Revising the definition of the term "inventory," for purposes of ad valorem taxation, to include certain rented construction, earthmoving, or industrial equipment; providing that certain marketplace providers are subject to dealer requirements for the registration, collection, and remittance of sales taxes; providing sales tax exemptions on the sale of specified disaster preparedness supplies during a specified timeframe, etc.  CM 03/11/2019 Favorable FT 04/16/2019 Fav/CS AP	Fav/CS Yeas 8 Nays 0

Other Related Meeting Documents

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Finance and Tax

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BILL: CS/SB 1040

INTRODUCER: Community Affairs Committee and Senator Lee

SUBJECT: Discretionary Sales Surtaxes

DATE: April 15, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Toman</u>	<u>Yeatman</u>	<u>CA</u>	<b>Fav/CS</b>
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<b>Favorable</b>
3.	_____	_____	<u>AP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1040 establishes additional provisions related to local government discretionary surtaxes.

The bill requires:

- A referendum to adopt or amend a local government discretionary sales surtax to be held only at a general election.
- A county, school district, or petition sponsor to provide a copy of the ordinance or resolution to the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) at least 180 days before the referendum.
- OPPAGA to procure, within 30 days after receiving the ordinance or resolution, the certified public accountant who will conduct the performance audit.

In addition to the requirements above, and at least 180 days before a proposed referendum, a petition sponsor of an initiative to adopt a charter county and regional transportation system surtax must:

- Obtain an independent legal opinion verifying that the proposed referendum complies with state law.
- File the initiative petition and its required valid signatures with the supervisor of elections.

Failure to comply with the above provisions renders a discretionary sales surtax referendum void.

The bill takes effect October 1, 2019.

## II. Present Situation:

### Discretionary Sales Surtaxes

In addition to the state sales and use tax, s. 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes. A surtax applies to “all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.,] and communications services as defined in ch. 202”<sup>1</sup> The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or are delivered. Discretionary sales surtax rates currently levied vary from 0.5 percent to 2.5 percent.<sup>2</sup>

The Legislature has authorized the following local option discretionary sales surtaxes:

- Charter County and Regional Transportation System Surtax, for operating a transportation system in a charter county, a county which is consolidated with that of one or more municipalities, or a county that is within or under an interlocal agreement with a regional transportation or transit authority.
- Local Government Infrastructure Surtax, for financing local government infrastructure projects.
- Small County Surtax, providing additional revenue for counties having fewer than 50,000 residents as of April 1, 1992.
- Indigent Care and Trauma Center Surtax, for providing medical care for indigent persons (in non-consolidated counties having a population of at least 800,000) and funding trauma centers (in non-consolidated counties having a population less than 800,000).
- County Public Hospital Surtax, for operating, maintaining, and administering a county public general hospital in a county as defined in s. 125.011(1), F.S. (i.e., Miami-Dade County).
- School Capital Outlay Surtax, for constructing and renovating schools.
- Voter-Approved Indigent Care Surtax, for providing medical care for indigent persons in counties with a population less than 800,000.
- Emergency Fire Rescue Services and Facilities Surtax, for providing emergency fire rescue services and facilities.
- Pension Liability Surtax, for funding pension liability shortfalls.<sup>3</sup>

The Department of Revenue (DOR) administers, collects, and enforces county discretionary sales surtaxes pursuant to the same procedures used in the administration, collection, and enforcement of the state sales tax.<sup>4</sup> The DOR then remits to the appropriate county the surtax proceeds less an administration fee, not to exceed three percent.<sup>5</sup>

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<sup>1</sup> Section 212.054, F.S.

<sup>2</sup> Florida Legislature, Office of Economic and Demographic Research, *Florida Tax Handbook*, 2019 Local Discretionary Sales Surtax Rates in Florida’s Counties, 225-226 (2019), available at: <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2019.pdf>, (last visited April 11, 2019).

<sup>3</sup> See section 212.055, F.S.

<sup>4</sup> Section 212.054(4)(a), F.S.

<sup>5</sup> Section 212.054(4)(b) and (c), F.S.

The 56 counties and 19 school districts levying one or more discretionary sales surtaxes were projected to realize \$3.38 billion in revenue in Fiscal Year 2018-19.<sup>6</sup>

Most local discretionary sales surtaxes may only be approved by referendum, while some may be approved by an extraordinary vote of the county commission.<sup>7</sup> If voter approval is required, a majority of electors voting must approve the referendum.<sup>8</sup>

### **Charter County and Regional Transportation System Surtax**

Any county that has adopted a home rule charter, any county government that has consolidated with one or more municipalities, and any county that is within or under an interlocal agreement with a regional transportation or transit authority created under chs. 343 or 349, F.S., may levy this surtax at a rate of up to 1 percent, subject to approval by a majority vote of the county's electorate or a charter amendment approved by a majority vote of the county's electorate.<sup>9</sup>

Based on these criteria, 31 counties (i.e., Alachua, Bay, Brevard, Broward, Charlotte, Citrus, Clay, Columbia, Duval, Escambia, Franklin, Gulf, Hernando, Hillsborough, Lee, Leon, Manatee, Miami-Dade, Okaloosa, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Santa Rosa, Sarasota, Seminole, Volusia, Wakulla, and Walton) are eligible to levy the surtax. Currently, only four of the 31 eligible counties levy this surtax at the following percentages: Broward (1.0), Duval (0.5), Hillsborough (1.0), and Miami-Dade (0.5).<sup>10</sup>

Generally, the surtax proceeds are used for the development, construction, operation, and maintenance of fixed guideway rapid transit systems; bus systems; on-demand transportation services; and roads and bridges.<sup>11</sup> Counties eligible to levy the surtax may also use up to 25 percent of the proceeds for nontransit purposes.<sup>12</sup>

Collections for the Charter County and Regional Transportation System Surtax are estimated to produce \$342.4 million in Fiscal Year 2018-2019.<sup>13</sup>

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<sup>6</sup> Office of Economic and Demographic Research, *2018 Local Government Financial Information Handbook* p. 148 (Sep. 2018), available at <http://edr.state.fl.us/Content/local-government/reports/lghfih18.pdf> (last visited April 11, 2019).

<sup>7</sup> See s. 212.055, F.S.; and s. 212.055(3), F.S., small county surtax may be approved by extraordinary vote of the county commission as long as surtax revenues are not used for servicing bond indebtedness; s. 212.055(4), F.S., indigent care and trauma center surtax may be approved by extraordinary vote of the county commission; and s. 212.055(5), F.S., county public hospital surtax may be approved by extraordinary vote of the county commission.

<sup>8</sup> Section 212.055, F.S.

<sup>9</sup> Section 212.055(1), F.S. See also *supra* note 2. The timing for placing the referendum on the ballot is set at the discretion of the governing body.

<sup>10</sup> See *supra* note 2.

<sup>11</sup> Section 212.055(1)(d), F.S.

<sup>12</sup> Section 212.055(1)(d)3., F.S.

<sup>13</sup> See *supra* note 2.

## Discretionary Sales Surtax Performance Audits

Chapter 2018-118, s. 35, L.O.F., required that for all discretionary sales surtax referendum held on or after March 23, 2018, a performance audit by an independent certified public accountant must be conducted.<sup>14</sup> Section 212.055(10)(a), F.S., defines this audit as:

an examination of the program conducted according to applicable government auditing standards or auditing and evaluation standards of other appropriate authoritative bodies, including the effectiveness of the program, the structure and design of the program, alternative methods of achieving the goals of the program, performance measures that may be used to track program accomplishments, the accuracy and adequacy of public documents, and reports related to the program, and compliance of the program with applicable policies, rules, and laws.

OPPAGA must procure the certified public accountant to conduct the performance audit.<sup>15</sup> The results of the performance audit, including any findings, recommendations, or other accompanying documents must be made available on the website of the county or school district at least 60 days prior to the referendum and must be maintained on the website for at least 2 years.<sup>16</sup>

## Referendum Process

The Florida Election Code provides the general requirements for a referendum.<sup>17</sup> The question presented to voters must contain a ballot summary with clear and unambiguous language, such that a “yes” or “no” vote on the measure indicates approval or rejection, respectively.<sup>18</sup> The ballot summary should explain the chief purpose of the measure and may not exceed 75 words.<sup>19</sup> The ballot summary and title must be included in the resolution or ordinance calling for the referendum.<sup>20</sup> For some discretionary sales surtaxes, the form of the ballot question is specified by the statute authorizing the tax.<sup>21</sup>

Five types of elections exist under the Election Code: primary elections, special primary elections, special elections, general elections, and presidential preference primary elections.<sup>22</sup> A “general election” is held on the first Tuesday after the first Monday in November in even-numbered years to fill national, state, county, and district offices, and for voting on constitutional amendments.<sup>23</sup>

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<sup>14</sup> Section 212.055(10)(a), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> S. 212.055(10)(b), F.S.

<sup>17</sup> Section 101.161, F.S.

<sup>18</sup> Section 101.161(1), F.S.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *See e.g.*, s. 212.055(4)(a)2, (4)(b)1., F.S. (ballot question for discretionary sales surtax for indigent care and trauma center).

<sup>22</sup> Section 97.021(12), F.S.

<sup>23</sup> FLA. CONST. Art. VI, s. 5(a). *See also* s. 97.021(16), F.S.

## Initiative Petition Procedures for Placement of the Ballot

Section 100.371, F.S., governs how constitutional amendments proposed by initiative are placed on the ballot for the general election. Under s. 100.371(3), F.S., each initiative petition signature is dated and valid for a period of two years following the date.<sup>24</sup> The sponsor must submit dated forms to the appropriate supervisor of elections for verification and the supervisor must verify signatures within 30 days of receipt of the petition forms and payment of a required fee.<sup>25</sup> The supervisor can verify that a signature is valid only if it meets certain requirements. Signature forms must be retained for one year or until notified by the Division of Elections.

## Written Legal Opinions

In general, a legal opinion is a document in which an official such as a state attorney general, a city solicitor, or a private attorney renders her or his understanding of the law as applied to the assumed facts.<sup>26</sup> It may or may not serve as protection to one acting on it, depending on the nature of it and the law governing such opinions. Legal opinions are occasionally formally addressed to clients but substantively intended to benefit (or, at least, also benefit) third parties who are explicitly permitted to rely on them.<sup>27</sup> Third parties commonly require these opinions as a condition precedent to closing business transactions.<sup>28</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 212.055, F.S., to require that a referendum to adopt or amend a local government discretionary surtax must be held at a general election. This will limit the timing and frequency of these referenda to even-year November elections.

The bill also requires a petition sponsor of a charter county and regional transportation system discretionary surtax proposal to, at least 180 days before the proposed referendum:

- Obtain an independent written legal opinion from an attorney who is a member in good standing of The Florida Bar, verifying that the proposed referendum complies with state law, and provide the proposed referendum and legal opinion to the governing body of the county which will make both documents available on its official website.
- Provide a copy of the final resolution or ordinance of the proposed referendum to OPPAGA, which will then procure the certified public accountant for the required performance audit within 30 days after receiving notification.
- File the initiative petition and its required valid signatures with the supervisor of elections who will verify signatures and retain signature forms in the same manner as required for initiatives under s. 100.371(3), F.S.

The failure of an initiative sponsor to comply with the requirements above renders any referendum held void.

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<sup>24</sup> See s. 100.371(3), F.S., for the remainder of the information presented in this section of the bill analysis.

<sup>25</sup> See s. 99.097(4), F.S., regarding the fee for checking signatures and grounds for having such fees waived.

<sup>26</sup> See BLACK'S LAW DICTIONARY (6<sup>th</sup> ed. 1990).

<sup>27</sup> See Steven L. Schwarcz, *The Limits of Lawyering: Legal Opinions in Structured Finance*, Texas Law Review, vol. 84, no.1, 2005.

<sup>28</sup> *Id.*

In addition, the bill requires the county or school district for which a discretionary sales surtax referendum is to be held to provide a copy of the final resolution or ordinance of the proposed referendum to OPPAGA 180 days before the proposed referendum for purposes of a performance audit. Within 30 days of receiving such notification, OPPAGA must procure the certified public accountant needed for the required performance audit.

Failure to comply with the 180-day notification of OPPAGA or a required completion of the performance audit 60 days before the referendum is held renders any such referendum to adopt a discretionary sales surtax void.

**Section 2** provides an effective date of October 1, 2019.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Article VII, s. 18(b) of the Florida Constitution provides that the Legislature, except upon approval by a two-thirds vote of the membership, may not enact a general law if the anticipated effect of doing so would be to reduce the *authority* that counties or municipalities have to raise revenues in the aggregate.

The bill requires that a referendum to adopt or amend a local government discretionary surtax must be held at a general election. While the bill limits the flexibility that counties and municipalities have for scheduling a referendum, it does not limit the authority they have to raise revenues. Therefore, the bill does not appear to be a mandate.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None identified.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

The Revenue Estimating Conference (REC) has not reviewed this bill. However, the REC determined that Senate Bill 336, which provides that all referenda to adopt or amend a

local option discretionary sales surtax must be held at a general election, would not affect state or local government revenues.

**B. Private Sector Impact:**

Petition sponsors of initiatives to adopt a charter county and regional transportation system surtax will incur costs related to the required legal opinion and possibly incur costs for fees to check petition signatures.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 212.055 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Community Affairs on March 26, 2019:**

- Requires that a referendum to adopt or amend a local government discretionary surtax must be held at a general election.
- Requires the petition sponsor of a charter county and regional transportation system surtax to provide a copy of the final resolution or ordinance to OPPAGA 180 days prior to a referendum.
- Requires counties and school districts to provide a copy of the final resolution or ordinance to OPPAGA 180 days prior to a referendum for purposes of a performance audit.
- Changes the effective date to October 1, 2019.

**B. Amendments:**

None.



By the Committee on Community Affairs; and Senator Lee

578-03520-19

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A bill to be entitled

An act relating to discretionary sales surtaxes; amending s. 212.055, F.S.; providing that a referendum to adopt or amend a local discretionary sales surtax must be held at a general election; requiring a petition sponsor of an initiative to adopt a charter county and regional transportation system surtax to comply with specified requirements within a specified timeframe before the proposed referendum; requiring a county to make the proposed referendum and a specified legal opinion available on its official website; requiring the Office of Program Policy Analysis and Government Accountability, upon receiving a certain notice, to procure a certified public accountant for a performance audit; requiring a supervisor of elections to verify petition signatures and retain signature forms in a specified manner; providing that an initiative sponsor's failure to comply with the specified requirements renders any referendum held void; revising requirements and procedures for counties, school districts, and the office relating to performance audits; providing that the failure to comply with certain requirements renders any referendum held to adopt a discretionary sales surtax void; providing an effective date.

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

Section 1. Present subsection (10) of section 212.055,

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Florida Statutes, is redesignated as subsection (11) and amended, a new subsection (10) is added to that section, and paragraph (c) of subsection (1), paragraph (b) of subsection (5), and paragraph (b) of subsection (8) are amended, to read:

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

(1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM SURTAX.—

(c)1. The proposal to adopt a discretionary sales surtax as provided in this subsection and to create a trust fund within the county accounts shall be placed on the ballot in accordance with law and must be approved in a referendum held at a general election in accordance with subsection (10) at a time to be set at the discretion of the governing body.

2. If the proposal to adopt a surtax is by initiative, the petition sponsor must, at least 180 days before the proposed referendum, comply with all of the following:

a. Obtain an independent written legal opinion from an

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59 attorney who is a member in good standing of The Florida Bar  
 60 which verifies that the proposed referendum complies with state  
 61 law, and provide the proposed referendum and legal opinion to  
 62 the governing body of the county. The county shall make the  
 63 proposed referendum and legal opinion available on its official  
 64 website.

65 b. Provide a copy of the final resolution or ordinance to  
 66 the Office of Program Policy Analysis and Government  
 67 Accountability. The Office of Program Policy Analysis and  
 68 Government Accountability shall procure a certified public  
 69 accountant in accordance with subsection (10) for the  
 70 performance audit.

71 c. File the initiative petition and its required valid  
 72 signatures with the supervisor of elections. The supervisor of  
 73 elections shall verify signatures and retain signature forms in  
 74 the same manner as required for initiatives under s. 100.371(3).

75 3. The failure of an initiative sponsor to comply with the  
 76 requirements of subparagraph 2. renders any referendum held  
 77 void.

78 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in  
 79 s. 125.011(1) may levy the surtax authorized in this subsection  
 80 pursuant to an ordinance either approved by extraordinary vote  
 81 of the county commission or conditioned to take effect only upon  
 82 approval by a majority vote of the electors of the county voting  
 83 in a referendum. In a county as defined in s. 125.011(1), for  
 84 the purposes of this subsection, "county public general  
 85 hospital" means a general hospital as defined in s. 395.002  
 86 which is owned, operated, maintained, or governed by the county  
 87 or its agency, authority, or public health trust.

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88 (b) If the ordinance is conditioned on a referendum, the  
 89 proposal to adopt the county public hospital surtax shall be  
 90 placed on the ballot in accordance with subsection (10) law at a  
 91 time to be set at the discretion of the governing body. The  
 92 referendum question on the ballot shall include a brief general  
 93 description of the health care services to be funded by the  
 94 surtax.

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

96 (b) Upon the adoption of the ordinance, the levy of the  
 97 surtax must be placed on the ballot by the governing authority  
 98 of the county enacting the ordinance. The ordinance will take  
 99 effect if approved by a majority of the electors of the county  
 100 voting in a referendum held for such purpose. The referendum  
 101 shall be placed on the ballot of a general regularly scheduled  
 102 election. The ballot for the referendum must conform to the  
 103 requirements of s. 101.161.

104 (10) DATES FOR REFERENDA.—A referendum to adopt or amend a  
 105 local government discretionary sales surtax under this section  
 106 must be held at a general election as defined in s. 97.021.

107 (11)(10) PERFORMANCE AUDIT.—

108 (a) ~~For any referendum held on or after March 23, 2018,~~ To  
 109 adopt a discretionary sales surtax under this section, an  
 110 independent certified public accountant licensed pursuant to  
 111 chapter 473 shall conduct a performance audit of the program  
 112 associated with the proposed surtax ~~adoption proposed by the~~  
 113 ~~county or school district.~~

114 (b)1. At least 180 days before the referendum is held, the  
 115 county or school district shall provide a copy of the final  
 116 resolution or ordinance to the Office of Program Policy Analysis

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117 and Government Accountability.

118 2. Within 30 days after receiving the final resolution or  
 119 ordinance, the Office of Program Policy Analysis and Government  
 120 Accountability shall procure the certified public accountant and  
 121 may use carryforward funds to pay for the services of the  
 122 certified public accountant.

123 3.~~(b)~~ At least 60 days before the referendum is held, the  
 124 performance audit must ~~shall~~ be completed and the audit report,  
 125 including any findings, recommendations, or other accompanying  
 126 documents, must ~~shall~~ be made available on the official website  
 127 of the county or school district.

128 4. The county or school district shall keep the information  
 129 on its website for 2 years from the date it was posted.

130 5. The failure to comply with the requirements under  
 131 subparagraph 1. or subparagraph 3. renders any referendum held  
 132 to adopt a discretionary sales surtax void.

133 (c) For purposes of this subsection, the term "performance  
 134 audit" means an examination of the program conducted according  
 135 to applicable government auditing standards or auditing and  
 136 evaluation standards of other appropriate authoritative bodies.  
 137 At a minimum, a performance audit must include an examination of  
 138 issues related to the following:

- 139 1. The economy, efficiency, or effectiveness of the  
 140 program.
- 141 2. The structure or design of the program to accomplish its  
 142 goals and objectives.
- 143 3. Alternative methods of providing program services or  
 144 products.
- 145 4. Goals, objectives, and performance measures used by the

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146 program to monitor and report program accomplishments.

147 5. The accuracy or adequacy of public documents, reports,  
 148 and requests prepared by the county or school district which  
 149 relate to the program.

150 6. Compliance of the program with appropriate policies,  
 151 rules, and laws.

152 (d) This subsection does not apply to a referendum held to  
 153 adopt the same discretionary surtax that was in place during the  
 154 month of December immediately before the date of the referendum.

155 Section 2. This act shall take effect October 1, 2019.

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*The Florida Senate*

## Committee Agenda Request

**To:** Senator George Gainer, Chair  
Committee on Finance and Tax

**Subject:** Committee Agenda Request

**Date:** March 27, 2019

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I respectfully request that **Senate Bill #1040**, relating to Discretionary Sales Surtaxes, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink that reads "Tom Lee".

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Senator Tom Lee  
Florida Senate, District 20

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

SB 1040

Bill Number (if applicable)

Topic Discretionary Sales Tax

Amendment Barcode (if applicable)

Name Demetrius Minor

Job Title Director of Coalitions

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Americans For Prosperity

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/2019  
Meeting Date

1040  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S  
Street

Phone 727/897-9291

St. Petersburg FL 33705  
City State Zip

Email justice4jesus@yahoo.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: CS/SB 1112

INTRODUCER: Senators Gruters, Gainer, and others

SUBJECT: Taxation

DATE: April 18, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McKay</u>	<u>McKay</u>	<u>CM</u>	<b>Favorable</b>
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<b>Fav/CS</b>
3.	_____	_____	<u>AP</u>	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 1112 contains changes to Florida’s tax statutes. The bill:

- Exempts from ad valorem taxation certain heavy equipment rented by a dealer.
- Increases a property tax discount from 50 percent to 100 percent for certain multifamily projects that provide affordable housing to low-income families.
- Reduces the state tax rate on the rental, lease, or license to use commercial real property from 5.7 percent to 3.5 percent.
- Requires retailers with no physical presence in Florida to collect Florida’s sales tax on sales of taxable items delivered to purchasers in Florida if they make a substantial number of sales into Florida.
- Provides for the taxation of sales facilitated through marketplace providers.
- Creates a sales tax refund for job training organizations, up to \$2 million, annually.
- Allows projects that create intellectual property to qualify for the Capital Investment Tax Credit.
- Creates a tax credit for insurers and health maintenance organizations that cover telehealth services.

The fiscal impact of the bill is estimated to decrease General Revenue Fund receipts by \$20.2 million (\$104.9 million recurring) in Fiscal Year 2019-2020 and increase local government revenue by \$41.8 million (\$17.6 million recurring). See Section V., Fiscal Impact Statement.



The provisions in the bill that require retailers and marketplace providers with no physical presence in the state to collect Florida sales tax take effect October 1, 2019.

Except as otherwise provided, the bill takes effect upon becoming law

## II. Present Situation:

### General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.<sup>1</sup> The property appraiser annually determines the “just value”<sup>2</sup> of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”<sup>3</sup> Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes<sup>4</sup> and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.<sup>5</sup> The just valuation standard generally requires the property appraiser to consider the highest and best use of property.<sup>6</sup>

### *Inventory*

The Florida Constitution allows the Legislature to exempt from ad valorem taxation taxable personal property held for sale as stock in trade.<sup>7</sup>

Current law exempts from ad valorem taxation all items of inventory.<sup>8</sup> “Inventory” is defined as chattels consisting of items commonly referred to as goods, wares, and merchandise (as well as inventory) which are held for sale or lease to customers in the ordinary course of business. Supplies and raw materials are considered to be inventory only to the extent that they are acquired for sale or lease to customers in the ordinary course of business or will physically become a part of merchandise intended for sale or lease to customers in the ordinary course of business. Partially finished products which when completed will be held for sale or lease to customers in the ordinary course of business are deemed items of inventory. All livestock is

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<sup>1</sup> Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>2</sup> Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

<sup>3</sup> *See* s. 192.001(2) and (16), F.S.

<sup>4</sup> FLA. CONST. art. VII, s. 1(a).

<sup>5</sup> *See* FLA. CONST. art. VII, s. 4.

<sup>6</sup> Section 193.011(2), F.S.

<sup>7</sup> FLA. CONST. art. VII, s. 4(c).

<sup>8</sup> Section 196.185, F.S.

considered inventory. Items of inventory held for lease to customers in the ordinary course of business, rather than for sale, shall be deemed inventory only prior to the initial lease of such items.<sup>9</sup>

### *Affordable Housing*

The Florida Constitution provides that portions of property used predominately for educational, literary, scientific, religious, or charitable purposes may be exempted by general law from taxation.<sup>10</sup>

In 1999, the Legislature authorized a property tax exemption for property owned by certain exempt entities which provide affordable housing under the charitable purposes exemption.<sup>11</sup> The property must be owned entirely by a not-for-profit corporation, used to provide affordable housing through any state housing program under ch. 420, F.S., and serving low-income and very-low-income persons.<sup>12</sup> In order to qualify for the exemption, the property must comply with s. 196.195, F.S., for determining non-profit status of the property owner and s. 196.196, F.S., for determining exempt status of the use of the property.

In 2017, the Legislature provided that property used as affordable housing will be considered a charitable purpose and qualify for a 50 percent property tax discount if the property:

- Provides affordable housing to natural persons or families meeting the extremely-low, very-low, or low-income limits specified in s. 420.0004, F.S.
- Provides housing in a multifamily project in which at least 70 units are provided to the above group.
- Is subject to an agreement with the Florida Housing Finance Corporation to provide affordable housing to the above group, recorded in the official records of the county in which the property is located.<sup>13</sup>

The discount begins on January 1 of the year following the 15th year of the term of the agreement on those portions of the affordable housing property that provide the housing as described above. The discount terminates when the property is no longer serving extremely-low, very-low, or low-income persons pursuant to the recorded agreement. The discount is applied to taxable value prior to tax rolls being reported to taxing authorities and tax rates being set in the annual local government budgeting process.

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<sup>9</sup> Section 192.001(11)(c), F.S.

<sup>10</sup> FLA. CONST. art. VII, s. 3.

<sup>11</sup> Chapter 99-378, s. 15, Laws of Fla. (creating s. 196.1978, F.S, effective July 1, 1999).

<sup>12</sup> The not for profit corporation must qualify as charitable under s. 501(c)(3) of the Internal Revenue Code and other federal regulations. See 26 U.S.C. § 501(c)(3) (“charitable purposes” include relief of the poor, the distressed or the underprivileged, the advancement of religion, and lessening the burdens of government).

<sup>13</sup> Chapter 2017-36, s. 6, Laws of Fla.

## Florida Sales and Use Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property, admissions,<sup>14</sup> transient rentals,<sup>15</sup> rental of commercial real estate,<sup>16</sup> and a limited number of services. Chapter 212, F.S., contains statutory provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.<sup>17</sup> Sales tax receipts are estimated to account for 77 percent of the state's General Revenue Fund in Fiscal Year 2018-2019.<sup>18</sup>

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes. A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202"<sup>19</sup> The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or are delivered. Discretionary sales surtax rates currently levied vary by county in a range from 0.5 to 2.5 percent.<sup>20</sup>

### *Sales Tax on Commercial Rent*

Since 1969, Florida has imposed a sales tax on the total rent charged for the rental, lease, or license to use commercial real property.<sup>21</sup> Sales tax is due at the rate of 5.7 percent on the total rent paid<sup>22</sup> and local discretionary sales surtaxes may apply.<sup>23</sup> If the tenant makes payments such as mortgage, ad valorem taxes, or insurance on behalf of the property owner, such payments are also classified as rent and are subject to the tax.<sup>24</sup>

Commercial real property includes land, buildings, office or retail space, convention or meeting rooms, airport tie-downs, and parking and docking spaces. It also includes the granting of a license to use real property for placement of vending, amusement, or newspaper machines. However, there are several commercial rentals that are not subject to tax, including:

- Rentals of real property assessed as agricultural.

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<sup>14</sup> Section 212.04, F.S.

<sup>15</sup> Section 212.03, F.S.

<sup>16</sup> Section 212.031, F.S.

<sup>17</sup> Florida Dept. of Revenue, *Who must pay tax? Partial list of taxable business activities*, available at [http://dor.myflorida.com/dor/taxes/sales\\_tax.html](http://dor.myflorida.com/dor/taxes/sales_tax.html) (last visited March 8, 2019).

<sup>18</sup> Florida Legislature, Office of Economic and Demographic Research, *Florida Tax Handbook*, Sources of General Revenue, 16 (2019), available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited April 3, 2019).

<sup>19</sup> Section 212.054, F.S.

<sup>20</sup> Florida Legislature, Office of Economic and Demographic Research, *Florida Tax Handbook*, 2018 Local Discretionary Sales Surtax Rates in Florida's Counties, 224-225 (2018), available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2018.pdf> (last visited March 8, 2019).

<sup>21</sup> Chapter 1969-222, Laws of Fla.

<sup>22</sup> Section 212.031, F.S.

<sup>23</sup> Section 212.055, F.S.

<sup>24</sup> Rule 12A-1.070, F.A.C.

- Rentals to nonprofit organizations that hold a current Florida consumer's certificate of exemption.
- Rentals to federal, state, county, or city government agencies.
- Properties used exclusively as dwelling units.
- Public streets or roads used for transportation purposes.<sup>25</sup>

### ***Qualified Job Training Organizations Program***

Section 288.1097, F.S., allows a “qualified job training organization” to receive grant funding from the Department of Economic Opportunity (DEO).

To be eligible, a job training organization must:

- Be exempt under s. 501(c)(3) or (4) of the Internal Revenue Code.
- Provide job training and employment services to individuals who have workplace disadvantages or disabilities.
- Be accredited by the Commission on Accreditation of Rehabilitation Facilities.
- Collect Florida sales tax.
- Specialize in the retail sale of donated items.
- Operate statewide through more than 100 locations.
- Use a majority of its revenues for job training and placement programs that create jobs and foster economic development.
- Be certified by the DEO that the organization meets the requirements described above.

The DEO is permitted to release funds to the organization pursuant to a contract with the organization. The contract must require the organization to meet certain performance conditions in order to receive the grant funds. The performance conditions must include “net new employment in the state, the methodology for validating performance, the schedule of payments, and sanctions for failure to meet the performance requirements including any provisions for repayment of awards” and that salaries paid to officers and employees of the organization meet the requirements of s. 4958 of the Internal Revenue Code.<sup>26</sup>

The organization must use the grant funds “solely to encourage and provide economic development through capital construction, improvements, or the purchase of equipment that will result in expanded employment opportunities.” The statute also requires the organization to meet certain results within a 10-year period.<sup>27</sup>

No funds have been appropriated to this program.

### ***Corporate Income Tax Credit—Intellectual Property***

The Capital Investment Tax Credit (CITC) is an incentive used to attract and grow capital-intensive industries in Florida. It is an annual credit, provided for up to 20 years, against corporate income tax or insurance premium tax liabilities generated by or arising out of the qualifying project.

<sup>25</sup> See s. 212.031(1)(a)1.-13., F.S.

<sup>26</sup> Section 288.1097(2), F.S.

<sup>27</sup> See section 288.1097(3), F.S.

The CITC defines the projects that are eligible for the program. They include:

- A new or expanded facility in a designated high-impact portion of the following sectors: clean energy, biomedical technology, financial services, information technology, silicon technology, transportation equipment manufacturing, or a corporate headquarters facility.
- A new or expanded facility which is engaged in a target industry designated pursuant to the procedure specified in s. 288.106(2)(t), F.S., and which is induced by this credit to create or retain at least 1,000 jobs, provided that at least 100 of those jobs are new, pay an annual average wage of at least 130 percent of the average private sector wage in the area, and results in a cumulative capital investment of at least \$100 million.
- A new or expanded headquarters facility which locates in an enterprise zone and brownfield area and is induced by this credit to create at least 1,500 jobs which on average pay at least 200 percent of the statewide average annual private sector wage, and which new or expanded headquarters facility makes a cumulative capital investment in this state of at least \$250 million. Headquarters projects can also qualify with a capital investment as low as \$15 million.<sup>28</sup>

The tax credits are determined by a project's eligible capital costs.<sup>29</sup> Eligible capital costs include all expenses incurred in the acquisition, construction, installation, and equipping of a project from the beginning of construction to the commencement of operations.<sup>30</sup> Taxpayers are generally allowed an annual credit equal to 5 percent of the project's eligible capital costs, for 20 years.<sup>31</sup>

The annual tax credit may not exceed the following percentages of the annual corporate income tax liability or the insurance premium tax liability generated by or arising out of a qualifying project:

- 100 percent for a qualifying project which results in a cumulative capital investment of at least \$100 million.
- 75 percent for a qualifying project which results in a cumulative capital investment of at least \$50 million but less than \$100 million.
- 50 percent for a qualifying project which results in a cumulative capital investment of at least \$25 million but less than \$50 million.<sup>32</sup>

### ***Telehealth***

Under current law, Florida does not offer a credit that may be taken against insurance premium tax or corporate income tax paid by health insurers or Health Maintenance Organizations that provide health care services using telecommunications technology.

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<sup>28</sup> See s. 220.191(3)(a), F.S.

<sup>29</sup> See s. 220.191(2)(a), F.S.

<sup>30</sup> Section 220.191(1)(c), F.S.

<sup>31</sup> Section 220.191(2)(a), F.S.

<sup>32</sup> Section 220.191(2)(a), F.S.

### ***Remote Sales Tax Collection and the Wayfair Decision***

As discussed above, sales tax is added to the price of taxable goods and the selling dealer is required to collect the tax from the purchaser at the time of sale.<sup>33</sup> Dealers then remit the collected taxes to the Department of Revenue (department).<sup>34</sup>

For items sold by an out-of-state dealer and delivered to the in-state purchaser via mail (mail-order sales), states have depended on their use taxes. Florida imposes a use tax that applies in these situations;<sup>35</sup> however, use tax compliance is notoriously low.

States would much prefer to have the out-of-state dealer collect the state's sales tax at the time of sale and remit those taxes to the state; however, the U.S. Supreme Court has interpreted the Commerce Clause of the U.S. Constitution to require that a dealer have a "substantial nexus" with the taxing state before the taxing state may require the dealer to collect its sales taxes.<sup>36</sup> For decades, the U.S. Supreme Court has interpreted the substantial nexus requirement to require that the dealer have a physical presence (people or property) within the taxing state.<sup>37</sup> The Court reasoned that to allow a taxing state to require a dealer located outside the taxing state to collect tax on behalf of the taxing state was an undue burden on interstate commerce.<sup>38</sup>

Under the "physical presence" standard, Florida, in 1987, adopted s. 212.0596, F.S., Florida's "mail order sales statute," which defines a mail order sale to be the sale of tangible personal property, ordered from a dealer who receives the order in another state and then causes the property to be transported to a person in this state.<sup>39</sup> Section 212.0596, F.S., is described below. Although the statute describes dealers who "receive [orders] in another state," application of the statute was still limited by the U.S. Supreme Court's physical presence standard. In fact, much of the statute is written in terms of being physically present within Florida.<sup>40</sup>

On June 21, 2018, the U.S. Supreme Court decided *South Dakota v. Wayfair*.<sup>41</sup> *Wayfair* involved a new South Dakota sales tax collection statute and Wayfair, Inc., a large online retailer that sells and ships tangible personal property to customers all over the United States. Wayfair, Inc., has no physical presence in South Dakota.

The *Wayfair* decision overturned the "physical presence test." The removal of the physical presence test will expand states' ability to collect sales taxes; however, the foundational constitutional requirement (substantial nexus) remains in place, and thus, the extent of states' authority is largely unknown at this time.

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<sup>33</sup> Florida Dept. of Revenue, *Who must pay tax? Partial list of taxable business activities*, available at [http://dor.myflorida.com/dor/taxes/sales\\_tax.html](http://dor.myflorida.com/dor/taxes/sales_tax.html) (last visited March 8, 2019).

<sup>34</sup> Section 212.15, F.S.

<sup>35</sup> See s. 212.06, F.S.

<sup>36</sup> See *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274 (1977).

<sup>37</sup> *National Bellas Hess, Inc., v. Illinois*, 386 U.S. 753 (1967); *Quill Corporation v. North Dakota*, 504 U.S. 298 (1992).

<sup>38</sup> *Quill Corporation v. North Dakota*, at 314-315.

<sup>39</sup> See s. 212.0596(1), F.S.

<sup>40</sup> See s. 212.0596(2)(j), F.S. (requiring dealers to collect tax on mail order sales if the dealer owns real property or tangible personal property that is physically in this state...).

<sup>41</sup> *South Dakota v. Wayfair, Inc.*, 138 S. Ct. 2080 (2018).

The facts involved in *Wayfair* provide the only situation currently known to satisfy all constitutional requirements for a remote seller without physical presence in the taxing state to collect and remit a states' sales and use tax.

For example:

- The South Dakota law only requires remote sellers with \$100,000 of sales or 200 individual transactions into South Dakota to collect tax. The law effectively has a “small seller exception” allowing small retailers—theoretically the ones most burdened by remote sales tax collection—to avoid collection responsibilities.
- The South Dakota law does not apply retroactively.
- South Dakota is a member of the Streamlined Sales and Use Tax Agreement.

### ***Taxation of Mail Order Sales***

Section 212.0596, F.S., establishes when a dealer who makes a mail order sales is subject to the power of this state to levy and collect Florida's sales tax. A “mail-order sale” is a sale of tangible personal property, ordered by mail or other means of communication, from a dealer who receives the order in another state of the United States or other area under the jurisdiction of the United States, and transports or causes the property to be transported to a person in Florida.

Every dealer as defined in s. 212.06(2)(c), F.S., who makes a mail-order sale is subject to the power of this state to levy and collect the tax imposed by this ch. 212, F.S., when:

- The dealer is a corporation doing business under the laws of this state or a person domiciled in, a resident of, or a citizen of, this state.
- The dealer maintains retail establishments or offices in this state.
- The dealer has agents in this state who solicit business or transact business on behalf of the dealer.
- The property was delivered in this state in fulfillment of a sales contract that was entered into in this state when a person in this state accepted an offer by ordering the property.
- The dealer, by purposefully or systematically exploiting the market provided by Florida by any media-assisted, media-facilitated, or media-solicited means, creates nexus with Florida.
- Through compact or reciprocity with another jurisdiction of the United States, that jurisdiction uses its taxing power and its jurisdiction over the retailer in support of Florida's taxing power.
- The dealer consents, expressly or by implication, to the imposition of the tax imposed by ch. 212, F.S.
- The dealer is subject to service of process under s. 48.181, F.S.
- The dealer's mail order sales are subject to the power of Florida to tax sales or to require the dealer to collect use taxes under a statute or statutes of the United States.
- The dealer owns real property or tangible personal property that is physically in this state.
- The dealer is a corporation that is a member of an affiliated group of corporations and whose members are eligible to file a consolidated tax return for federal corporate income tax purposes and any parent or subsidiary corporation in the affiliated group has nexus with this state.
- The dealer or the dealer's activities have sufficient connection with or relationship to this state or its residents of some type other than those described above to create nexus

empowering this state to tax its mail order sales or to require the dealer to collect sales tax or accrue use tax.<sup>42</sup>

Section 212.0956, F.S., also imposes a duty on dealers to cooperate in the collection of taxes, requires the department to enforce these provisions in other jurisdictions when the other jurisdiction consents, and specifies that sales tax required under this section to be collected and any amount unreturned to a purchaser that is not tax but was collected from the purchaser under the representation that it was tax constitute funds of the State of Florida from the moment of collection.

A dealer who makes a mail-order sale into this state is exempt from collecting and remitting any local option surtax on the sale, except under certain circumstances.<sup>43</sup> The department may establish by rule procedures for collecting the use tax from unregistered persons who but for their mail order purchases would not be required to remit sales or use tax directly to the department.<sup>44</sup>

Currently, a purchaser who remits use tax on an item imported into this state for use or consumption is not required to include in the remittance any local discretionary sales surtax.<sup>45</sup>

### III. Effect of Proposed Changes:

#### Exemption of Certain Heavy Equipment from Ad Valorem Taxation

**Section 1** amends the definition of “inventory” in s. 192.001(11), F.S., to include, for all levies other than school district levies, construction equipment owned by a heavy equipment rental dealer for sale or short-term rental in the normal course of business on the annual assessment date. The bill defines the term “heavy equipment rental dealer” as a person or entity principally engaged in the business of short-term rental and sale of equipment described under the North American Industrial Classification System,<sup>46</sup> including attachments for the equipment or other ancillary equipment. The term “short-term rental” means the rental of a dealer’s heavy equipment rental property for a period of less than 365 days, under an open-ended contract, or under a contract with unlimited terms. The prior short-term rental of any construction or industrial equipment does not disqualify such property from qualifying as inventory under this paragraph following the term of such rental. This exemption does not apply to equipment rented with an operator.

The effect of this change will be to exempt the listed equipment from ad valorem taxation.

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<sup>42</sup> Section 212.0596(2), F.S.

<sup>43</sup> Section 212.0596(6), F.S.

<sup>44</sup> Section 212.0596(7), F.S.

<sup>45</sup> *Id.*

<sup>46</sup> 2017 NAICS Definition, 532412, Construction, Mining, and Forestry Machinery and Equipment Rental and Leasing



## **Affordable Housing**

**Section 2** amends s. 196.1978(2), F.S., to increase the ad valorem tax discount from 50 percent to 100 percent on multifamily projects that provide housing to extremely-low-income, very-low-income, or low-income families.

## **Sales Tax on Commercial Rent**

**Section 4** amends s. 212.031, F.S., to reduce the state tax rate on the rental, lease, or license to use commercial real property from 5.7 percent to 3.5 percent, beginning January 1, 2019.

## **Job Training Organization**

**Section 9** creates a sales tax refund for eligible job training organizations and requires the organization to use the refund for specific purposes.

To be eligible for the refund, a job training organization must:

- Be exempt under s. 501(c)(3) of the Internal Revenue Code.
- Provide job training and employment services to low-income persons,<sup>47</sup> individuals who have workplace disadvantages, or individuals with barriers to employment.
- Be accredited by the Commission on Accreditation of Rehabilitation Facilities.

The bill also specifies that an eligible job training organization consisting of commonly owned and controlled entities is deemed to be a single organization.

An eligible job training organization is entitled to a refund equal to 10 percent of the sales tax remitted to the Department of Revenue (department) during the prior state fiscal year on the organization's sales of goods donated to the organization. The total amount of sales tax refunds issued to eligible job training organizations may not exceed \$2 million in any state fiscal year. Refunds are granted on a first-come, first-served basis.

The organization must use the refund for any of the following purposes:

- Growth in employment hours.<sup>48</sup>
- Job training and employment services<sup>49</sup> to low-income persons, individuals who have workplace disadvantages, or individuals with barriers to employment.
- Job training and employment services for veterans.

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<sup>47</sup> "Low-income persons" means one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater. Section 420.0004(11), F.S.

<sup>48</sup> "Growth in employment hours" is defined by the bill as "the growth in the number of hours worked by employees at an eligible job training organization in the most recently completed state fiscal year, compared to the number of hours worked by employees at the eligible job training organization in the state fiscal year immediately prior to the most recently completed state fiscal year."

<sup>49</sup> "Job training and employment services" is defined by the bill as "programs and services that improve job readiness, to assist workers in gaining employment and adapting to the changing labor market, and to help workers achieve employment success through self-sufficiency."

An organization seeking a refund must first submit an application to the Department of Economic Opportunity (DEO) by July 15. The application must establish that the organization meets the eligibility requirements and ensure that the refund will be used exclusively for the purposes listed above. The application must also include any supporting information set forth by the DEO in rule. The DEO is required to verify the application and notify the organization of the DEO's determination within 15 days of receiving a complete application. The bill authorizes the DEO to adopt rules necessary to administer the sales tax refund, including rules for the approval and disapproval of applications by organizations.

For approved applications, the DEO must send the eligible job training organization a notice that includes a certification that the organization is eligible to receive the sales tax refund. The decision of the DEO must be in writing, or in e-mail if agreed to by the organization. The DEO must send a copy of the notice and the certification, if applicable, to the department. The DEO's issuance of a certification remains in effect as long as the eligible job training organization remains in compliance with the requirements of the law.

An eligible job training organization that is certified by the DEO must then apply to the department between August 1 and August 31 of each year that the organization seeks a refund. The first application for a refund submitted to the department must include a copy of the DEO certification. An application must also include any information required by the department.

By August 1 following each state fiscal year that an eligible job training organization received a refund, the organization is required to provide a report to the DEO describing the use of the refund. The report must include the following:

- The amount of the refund used to create growth in employment hours.
- The total growth in employment hours.
- The amount of the refund used for job training and employment services.
- The number of individuals who participated in job training and employment services at the eligible job training organization.
- A statement declaring that the organization continues to meet the necessary requirements to remain eligible for the sales tax refund.

If the DEO determines that a job training organization no longer qualifies for the refund, the DEO must notify the department by August 31. The department is prohibited from issuing a refund after receiving such notification.

The overpayment of a refund or a refund issued to an ineligible job training organization is subject to repayment and interest at the rate calculated pursuant to s. 213.235, F.S.

### **Corporate Income Tax—Intellectual Property**

**Section 12** expands the list of property that qualify as capital investment for purposes of the Capital Investment Tax Credit to include intellectual property. Intellectual property includes copyrightable projects for the development of computer software.

For intellectual property projects, the eligible capital costs include wages, salaries, or other compensation paid to legal residents of Florida, as well as the cost of newly purchased software

and hardware that are located in and exclusively used in Florida. The annual average wage of project jobs must be at least 150 percent of the average private sector wage in the area. For intellectual property projects, the qualifying project can be made up of one or more projects with different start and completion dates.

Qualifying intellectual property projects are granted a tax credit equal to 5 percent of the project's eligible capital costs, for a period of up to 5 years, beginning on the start date of the project. The project is allowed to offset 100 percent of its corporate income tax liability if its capital investment is at least \$50 million per year for 4 years. If multiple projects are being used to meet the requirements of a qualifying project, each individual project must have capital investment of at least \$3.75 million.

Taxpayers that are unable to use tax credits due to insufficient tax liability may use any unused amount beginning in the sixth year after completion of the project through the 15th year after completion of the project. Additionally, the taxpayer may elect to transfer unused credits in any year; receiving businesses must use the credit in the year received.

### **Telehealth**

**Sections 13 and 14** create a telehealth tax credit for any health insurer or health maintenance organization (HMO) that covers services provided by telehealth.

The bill defines:

- “Health insurer” to mean an authorized insurer offering health insurance as defined in s. 624.603, F.S.<sup>50</sup>
- “Health maintenance organization” to have the same meaning as provided in s. 641.19, F.S.
- “Telehealth” to mean the use of synchronous or asynchronous telecommunications technology by a health care provider to provide health care services, including but not limited to, patient assessment, diagnosis, consultation, treatment, and monitoring; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.

For tax years beginning on or after January 1, 2020, and before January 1, 2023, the tax credit may be taken against insurance premium tax (IPT) liability incurred by a health insurer or HMO or, if an insufficient IPT liability exists, a health insurer or HMO may take the credit against their corporate income tax liability.

The tax credit is one tenth of one percent of the total insurance premiums received on accident or health insurance policy or plans issued in Florida that provide medical, major medical, or similar comprehensive coverage. The Office of Insurance Regulation (OIR) must confirm the coverage

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<sup>50</sup> Section 624.603, F.S., defines “health insurance,” also known as “disability insurance,” as insurance of human beings against bodily injury, disablement, or death by accident or accidental means, or the expense thereof, or against disablement or expense resulting from sickness, and every insurance appertaining thereto. Health insurance does not include workers’ compensation coverages, except as provided in s. 624.406(4), F.S.

to the department. The bill authorizes an unused tax credit or portion thereof to be carried forward for a period not to exceed five years.

The bill authorizes the department, in addition to its existing audit and investigation authority, additional authority to perform financial and technical audits and investigations to verify eligibility for the telehealth tax credit. Such audits and investigations may include examining the accounts, books, and records of the health insurer or HMO. The bill also directs OIR to provide technical assistance upon request by the department on any audits or investigations it performs. If the department discovers that a health insurer or health maintenance organization received a telehealth tax credit for which it was not entitled, the department is authorized to pursue recovery of the funds in accordance to the law.

The bill authorizes a health insurer or HMO to transfer a telehealth tax credit in whole or in part to another taxpayer by written agreement. To perfect the transfer, the transferor must provide a written statement to the department that states:

- The transferor's intent to transfer the tax credit to the transferee.
- The date the transfer is effective.
- The transferee's name, address, and federal taxpayer identification number.
- The tax period.
- The amount the tax credit to be transferred.

Upon receipt of the transfer statement, the department will issue a certificate reflecting the transferred credit amount, a copy of which must be attached to each tax return for which the transferee seeks to apply the credit.

An insurer that claims the telehealth tax credit is not required to pay any additional retaliatory tax, as a result of claiming such a credit.

The department and OIR are authorized to adopt rules to administer the telehealth tax credit, including rules regarding implementation and administration of the tax credit and forms needed to claim the telehealth tax credit.

### **Taxation of Remote Sales and Marketplace Sales**

**Section 3** amends the definition of "retail sale" in s. 212.02, F.S., to include a remote sale and a sale facilitated by a marketplace.

**Section 5** amends s. 212.05, F.S., to apply the sales and use tax to remote sales.

**Section 6** amends s. 212.0596, F.S., to change the phrase "mail order sale" to "remote sale" and to provide that a person who makes a substantial number of remote sales is a dealer for purposes of ch. 212, F.S. The term, "making a substantial number of remote sales" is defined to mean:

- In the previous calendar year, conducting 200 or more retail sales of tangible personal property to be delivered to a location within Florida; or
- In the previous calendar year, conducting any number of retail sales of tangible personal property to be delivered to a location within Florida, in an amount exceeding \$100,000

The bill also deletes a provision that exempts an out-of-state dealer who makes retail sales into this state from collecting and remitting any local option surtax.

**Section 7** creates s. 212.05965, F.S., providing for the taxation of marketplace sales.

The bill defines:

- “Marketplace” to mean any physical place or electronic medium through which tangible personal property is offered for sale.
- “Marketplace provider” to mean any person who:
  - Facilitates a retail sale by a marketplace seller by listing or advertising for sale by the marketplace seller tangible personal property in a marketplace; and
  - Directly, or indirectly through agreements or arrangements with third parties, collects payment from the customer and transmits the payment to the marketplace seller, regardless of whether the marketplace provider receives compensation or other consideration in exchange for its services.

The term does not include any person who solely provides handling or transportation services not subject to tax under ch. 212, F.S., or travel agency services. The term “travel agency services” means arranging, booking, or otherwise facilitating, for a commission, fee, or other consideration, vacation or travel packages, a rental car, or other travel reservations; tickets for domestic or foreign travel by air, rail, ship, bus, or other medium of transportation; or hotel or other lodging accommodations.

- “Marketplace seller” to mean a person who has an agreement with a marketplace provider and who makes retail sales of tangible personal property through a marketplace owned, operated, or controlled by a marketplace provider.

Every marketplace provider with a physical presence in Florida, or that is making or facilitating through a marketplace a substantial number of remote sales, is subject to the requirements imposed on dealers by ch. 212, F.S., for registration and for the collection and remittance of taxes. A marketplace provider must certify to its marketplace sellers that it will collect and remit the tax imposed on taxable retail sales made through the marketplace.

A marketplace seller may not collect and remit the sales tax on a taxable retail sale when the sale is made through the marketplace and the marketplace provider certifies that it will collect and remit the tax. A marketplace seller must exclude sales made through the marketplace from the marketplace seller’s tax return. A marketplace seller with a physical presence in this state, or making a substantial number of remote sales, must register, collect, and remit the sales tax on all taxable sales made outside of the marketplace.

A marketplace provider must allow the department to examine and audit its books and records. If the department audits a marketplace provider, the department may not propose a tax assessment on the marketplace seller for the same retail sales unless the marketplace seller provides incorrect or incomplete information to the marketplace provider.

With certain exceptions, the marketplace provider is relieved of liability for the tax, and the marketplace seller or customer is liable for the tax imposed under this chapter if:

- The marketplace provider demonstrates that it made a reasonable effort to obtain accurate information related to the retail sales facilitated through the marketplace from the marketplace seller, but the failure to collect and pay the correct amount of tax imposed under this chapter was due to incorrect or incomplete information provided by the marketplace seller to the marketplace provider; or
- The marketplace seller or the customer has already remitted the tax.

Consistent with s. 213.21, F.S., the department may compromise any tax, interest, or penalty assessed on retail sales conducted through a marketplace.

**Section 8** amends s. 212.06, F.S., to specify that the term “dealer” includes a retailer who transacts a remote sale and a marketplace provider who facilitates a retail sale through a marketplace.

**Sections 10 and 11** amend ss. 212.12 and 212.18 F.S., respectively, to reflect the change from “mail order” to “remote” sales.

The provisions in the bill that require retailers and marketplace providers with no physical presence in the state to collect Florida sales tax take effect October 1, 2019.

### **Reenactment**

**Section 15** reenacts s. 212.20(4), F.S., in order to incorporate the amendment made by this bill to s. 212.0596, F.S.

### **Emergency Rules**

**Section 16** authorizes the department to adopt emergency rules to implement the bill. The rulemaking grant is authorized upon the act becoming law, and expires July 1, 2020.

### **Severability**

**Section 17** provides that if any provision of the bill is found to be invalid, that invalidity does not affect the ability of the other provisions of the bill to go into effect. If that provision is severed, the other provisions of the bill can be given effect.

### **Effective date**

**Section 18** makes the act take effect upon becoming law, except as otherwise provided in the bill.

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

The bill does not require counties and municipalities to spend funds or limit their ability to raise revenue or reduce the percentage of a state tax shared with them.<sup>51</sup> Therefore, the mandates provision does not apply.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

The facts involved in *Wayfair* provide the only situation currently known to satisfy all constitutional requirements for a remote seller without physical presence in the taxing state to collect and remit a states’ sales and use tax. The court did not decide the constitutionality of marketplace providers to collect and remit a states’ sales and use tax on behalf of retailers who sell on the marketplace.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

The fiscal impact of the bill is estimated to decrease General Revenue Fund receipts by \$20.2million (\$104.9 million recurring) and increase local government revenue by \$41.8million (\$17.6 million recurring) in Fiscal Year 2019-2020. See the table below:

<b>Issues</b>	<b>GR</b>		<b>Trust</b>		<b>Local</b>		<b>Total</b>	
	<b>1st-year</b>	<b>Recurring</b>	<b>1st-year</b>	<b>Recurring</b>	<b>1st-year</b>	<b>Recurring</b>	<b>1st-year</b>	<b>Recurring</b>
<b>Ad Valorem:</b> Construction Equipment Rental-Inventory	-	-	-	-	-	(18.1)	-	(18.1)
<b>Ad Valorem:</b> Affordable Housing (1)	-	-	-	-	-	(30.8)	-	(30.8)
<b>Sales Tax:</b> Remote Sales (Oct. 1 Effective)	59.6	125.1	-	-	36.4	61.9	96.0	187.0
<b>Sales Tax:</b> Marketplace Sales (Oct. 1 Effective)	222.6	429.3	-	-	44.8	86.4	267.4	515.7
<b>Sales Tax:</b> Business Rent Tax/5.7 to 3.5	(300.8)	(627.6)	(*)	(*)	(39.0)	(81.4)	(339.8)	(709.0)
<b>Sales Tax:</b> Job Training Organizations	(1.6)	(1.6)	(*)	(*)	(0.4)	(0.4)	(2.0)	(2.0)
<b>Insurance Premium Tax:</b> Telehealth Tax Credit	-	(30.1)	-	-	-	-	-	(30.1)
<b>Corporate Income Tax:</b> CITC-Intellectual Property (2)	(**)	(**)	-	-	-	-	(**)	(**)
<b>Total</b>	<b>(20.2)</b>	<b>(104.9)</b>	<b>-</b>	<b>-</b>	<b>41.8</b>	<b>17.6</b>	<b>21.6</b>	<b>(87.3)</b>

(1) The estimate comes from the Revenue Estimating Conference’s adopted impact for HB 7109 (2017) for FY 2019-20, which provided a 50 percent discount.

<sup>51</sup> FLA. CONST. art. VII, s. 18.

**B. Private Sector Impact:**

More remote sellers will have to collect and remit Florida's sales tax pursuant to the provisions relating to remote sales and marketplace sales.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 192.001, 212.02, 212.031, 212.05, 212.0596, 212.05965, 212.06, 212.12, 212.18, and 212.20.

This bill creates section 212.05965 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Finance and Tax on April 16, 2019:**

The CS makes changes to the following provisions, which were in the original bill:

- **Remote Sellers** – The CS updates Florida law to require retailers with no physical presence in Florida to collect Florida sales tax on sales of taxable items delivered to purchasers in Florida. The CS applies this requirement to retailers who make at least \$100,000 in total sales or 200 sales.
- **Marketplace Providers** – The CS requires marketplace providers, such as Amazon or EBay, who facilitate \$100,000 in sales or 200 sales by marketplace sellers to purchasers within Florida to collect and remit Florida sales tax on behalf of the marketplace seller.
- **Commercial Rent** – The CS reduces Florida's sales tax on the rental of commercial real property from 5.7 percent to 3.5 percent.
- **Inventory** – The CS adds to the definition of "inventory" construction equipment held for sale or short-term rental by a heavy equipment rental dealer and thereby exempts the heavy equipment from property tax.

The CS adds the following provisions to the bill:

- **Capital Investment Tax Credit – Intellectual Property** – The CS allows projects that create intellectual property to qualify for the Capital Investment Tax Credit.



- **Affordable Housing** – The CS increases the discount to multifamily project property from 50 percent of the property’s value to 100 percent of the property’s value.
- **Job Training Organizations** – The CS creates a sales tax refund for job training organizations, up to \$2 million, annually.
- **Telehealth** – The CS creates a tax credit to insurers and HMOs that cover telehealth services.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2019	.	
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The Committee on Finance and Tax (Gruters) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Effective January 1, 2020, paragraph (c) of  
subsection (11) of section 192.001, Florida Statutes, is amended  
to read:

192.001 Definitions.—All definitions set out in chapters 1  
and 200 that are applicable to this chapter are included herein.  
In addition, the following definitions shall apply in the



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11 imposition of ad valorem taxes:

12 (11) "Personal property," for the purposes of ad valorem  
13 taxation, shall be divided into four categories as follows:

14 (c)1. "Inventory" means only those chattels consisting of  
15 items commonly referred to as goods, wares, and merchandise (as  
16 well as inventory) which are held for sale or lease to customers  
17 in the ordinary course of business. Supplies and raw materials  
18 shall be considered to be inventory only to the extent that they  
19 are acquired for sale or lease to customers in the ordinary  
20 course of business or will physically become a part of  
21 merchandise intended for sale or lease to customers in the  
22 ordinary course of business. Partially finished products which  
23 when completed will be held for sale or lease to customers in  
24 the ordinary course of business shall be deemed items of  
25 inventory. All livestock shall be considered inventory. Items of  
26 inventory held for lease to customers in the ordinary course of  
27 business, rather than for sale, shall be deemed inventory only  
28 prior to the initial lease of such items. For the purposes of  
29 this section, fuels used in the production of electricity shall  
30 be considered inventory.

31 2. "Inventory" also means construction and agricultural  
32 equipment weighing 1,000 pounds or more that is returned to a  
33 dealership under a rent-to-purchase option and held for sale to  
34 customers in the ordinary course of business. This subparagraph  
35 may not be considered in determining whether property that is  
36 not construction and agricultural equipment weighing 1,000  
37 pounds or more that is returned under a rent-to-purchase option  
38 is inventory under subparagraph 1.

39 3. Notwithstanding any provision in this subsection to the



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40 contrary, the term "inventory," for all levies other than school  
41 district levies, also means construction equipment owned by a  
42 heavy equipment rental dealer for sale or short-term rental in  
43 the normal course of business on the annual assessment date. For  
44 the purposes of this chapter and chapter 196, the term "heavy  
45 equipment rental dealer" means a person or entity principally  
46 engaged in the business of the short-term rental and sale of  
47 equipment described under 532412 of the North American Industry  
48 Classification System, including attachments for the equipment  
49 or other ancillary equipment. As used in this subparagraph, the  
50 term "short-term rental" means the rental of a dealer's heavy  
51 equipment rental property for a period of less than 365 days,  
52 under an open-ended contract, or under a contract with unlimited  
53 terms. The prior short-term rental of any construction or  
54 industrial equipment does not disqualify such property from  
55 qualifying as inventory under this paragraph following the term  
56 of such rental. This section may not be construed to consider as  
57 inventory heavy equipment rented with an operator.

58 Section 2. Effective January 1, 2020, paragraphs (a) and  
59 (c) of subsection (2) of section 196.1978, Florida Statutes, are  
60 amended to read:

61 196.1978 Affordable housing property exemption.—

62 (2) (a) Notwithstanding ss. 196.195 and 196.196, property in  
63 a multifamily project that meets the requirements of this  
64 paragraph is considered property used for a charitable purpose  
65 and shall receive a 100 ~~50~~ percent discount from the amount of  
66 ad valorem tax otherwise owed beginning with the January 1  
67 assessment after the 15th completed year of the term of the  
68 recorded agreement on those portions of the affordable housing



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69 property that provide housing to natural persons or families  
70 meeting the extremely-low-income, very-low-income, or low-income  
71 limits specified in s. 420.0004. The multifamily project must:

72 1. Contain more than 70 units that are used to provide  
73 affordable housing to natural persons or families meeting the  
74 extremely-low-income, very-low-income, or low-income limits  
75 specified in s. 420.0004; and

76 2. Be subject to an agreement with the Florida Housing  
77 Finance Corporation recorded in the official records of the  
78 county in which the property is located to provide affordable  
79 housing to natural persons or families meeting the extremely-  
80 low-income, very-low-income, or low-income limits specified in  
81 s. 420.0004.

82

83 This discount terminates if the property no longer serves  
84 extremely-low-income, very-low-income, or low-income persons  
85 pursuant to the recorded agreement.

86 (c) The property appraiser shall apply the discount by  
87 reducing the taxable value on those portions of the affordable  
88 housing property that provide housing to natural persons or  
89 families meeting the extremely-low-income, very-low-income, or  
90 low-income limits specified in s. 420.0004 before certifying the  
91 tax roll to the tax collector.

92 1. The property appraiser shall first ascertain all other  
93 applicable exemptions, including exemptions provided pursuant to  
94 local option, and deduct all other exemptions from the assessed  
95 value.

96 2. One hundred ~~Fifty~~ percent of the remaining value shall  
97 be subtracted to yield the discounted taxable value.



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98           3. The resulting taxable value shall be included in the  
99 certification for use by taxing authorities in setting millage.

100           4. The property appraiser shall place the discounted amount  
101 on the tax roll when it is extended.

102           Section 3. Effective October 1, 2019, paragraph (e) of  
103 subsection (14) of section 212.02, Florida Statutes, is amended,  
104 and paragraph (f) is added to that subsection, to read:

105           212.02 Definitions.—The following terms and phrases when  
106 used in this chapter have the meanings ascribed to them in this  
107 section, except where the context clearly indicates a different  
108 meaning:

109           (14)

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

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

114           Section 4. Effective January 1, 2020, paragraphs (c) and  
115 (d) of subsection (1) of section 212.031, Florida Statutes, are  
116 amended to read:

117           212.031 Tax on rental or license fee for use of real  
118 property.—

119           (1)

120           (c) For the exercise of such privilege, a tax is levied at  
121 the rate of 3.5 ~~5-7~~ percent of and on the total rent or license  
122 fee charged for such real property by the person charging or  
123 collecting the rental or license fee. The total rent or license  
124 fee charged for such real property shall include payments for  
125 the granting of a privilege to use or occupy real property for  
126 any purpose and shall include base rent, percentage rents, or



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127 similar charges. Such charges shall be included in the total  
128 rent or license fee subject to tax under this section whether or  
129 not they can be attributed to the ability of the lessor's or  
130 licensor's property as used or operated to attract customers.  
131 Payments for intrinsically valuable personal property such as  
132 franchises, trademarks, service marks, logos, or patents are not  
133 subject to tax under this section. In the case of a contractual  
134 arrangement that provides for both payments taxable as total  
135 rent or license fee and payments not subject to tax, the tax  
136 shall be based on a reasonable allocation of such payments and  
137 shall not apply to that portion which is for the nontaxable  
138 payments.

139 (d) When the rental or license fee of any such real  
140 property is paid by way of property, goods, wares, merchandise,  
141 services, or other thing of value, the tax shall be at the rate  
142 of 3.5 ~~5.7~~ percent of the value of the property, goods, wares,  
143 merchandise, services, or other thing of value.

144 Section 5. Effective October 1, 2019, section 212.05,  
145 Florida Statutes, is amended to read:

146 212.05 Sales, storage, use tax.—It is hereby declared to be  
147 the legislative intent that every person is exercising a taxable  
148 privilege who engages in the business of selling tangible  
149 personal property at retail in this state, including the  
150 business of making remote ~~mail-order~~ sales; ; ~~or~~ who rents or  
151 furnishes any of the things or services taxable under this  
152 chapter; ; or who stores for use or consumption in this state any  
153 item or article of tangible personal property as defined herein  
154 and who leases or rents such property within the state.

155 (1) For the exercise of such privilege, a tax is levied on



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156 each taxable transaction or incident, which tax is due and  
157 payable as follows:

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

163 b. Each occasional or isolated sale of an aircraft, boat,  
164 mobile home, or motor vehicle of a class or type which is  
165 required to be registered, licensed, titled, or documented in  
166 this state or by the United States Government shall be subject  
167 to tax at the rate provided in this paragraph. The department  
168 shall by rule adopt any nationally recognized publication for  
169 valuation of used motor vehicles as the reference price list for  
170 any used motor vehicle which is required to be licensed pursuant  
171 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any  
172 party to an occasional or isolated sale of such a vehicle  
173 reports to the tax collector a sales price which is less than 80  
174 percent of the average loan price for the specified model and  
175 year of such vehicle as listed in the most recent reference  
176 price list, the tax levied under this paragraph shall be  
177 computed by the department on such average loan price unless the  
178 parties to the sale have provided to the tax collector an  
179 affidavit signed by each party, or other substantial proof,  
180 stating the actual sales price. Any party to such sale who  
181 reports a sales price less than the actual sales price is guilty  
182 of a misdemeanor of the first degree, punishable as provided in  
183 s. 775.082 or s. 775.083. The department shall collect or  
184 attempt to collect from such party any delinquent sales taxes.





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185 In addition, such party shall pay any tax due and any penalty  
186 and interest assessed plus a penalty equal to twice the amount  
187 of the additional tax owed. Notwithstanding any other provision  
188 of law, the Department of Revenue may waive or compromise any  
189 penalty imposed pursuant to this subparagraph.

190 2. This paragraph does not apply to the sale of a boat or  
191 aircraft by or through a registered dealer under this chapter to  
192 a purchaser who, at the time of taking delivery, is a  
193 nonresident of this state, does not make his or her permanent  
194 place of abode in this state, and is not engaged in carrying on  
195 in this state any employment, trade, business, or profession in  
196 which the boat or aircraft will be used in this state, or is a  
197 corporation none of the officers or directors of which is a  
198 resident of, or makes his or her permanent place of abode in,  
199 this state, or is a noncorporate entity that has no individual  
200 vested with authority to participate in the management,  
201 direction, or control of the entity's affairs who is a resident  
202 of, or makes his or her permanent abode in, this state. For  
203 purposes of this exemption, either a registered dealer acting on  
204 his or her own behalf as seller, a registered dealer acting as  
205 broker on behalf of a seller, or a registered dealer acting as  
206 broker on behalf of the purchaser may be deemed to be the  
207 selling dealer. This exemption shall not be allowed unless:

208 a. The purchaser removes a qualifying boat, as described in  
209 sub-subparagraph f., from the state within 90 days after the  
210 date of purchase or extension, or the purchaser removes a  
211 nonqualifying boat or an aircraft from this state within 10 days  
212 after the date of purchase or, when the boat or aircraft is  
213 repaired or altered, within 20 days after completion of the



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214 repairs or alterations; or if the aircraft will be registered in  
215 a foreign jurisdiction and:

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

219 (II) The purchaser removes the aircraft from the state to a  
220 foreign jurisdiction within 10 days after the date the aircraft  
221 is registered by the applicable foreign airworthiness authority;  
222 and

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

225

226 For purposes of this sub-subparagraph, the term "foreign  
227 jurisdiction" means any jurisdiction outside of the United  
228 States or any of its territories;

229 b. The purchaser, within 30 days from the date of  
230 departure, provides the department with written proof that the  
231 purchaser licensed, registered, titled, or documented the boat  
232 or aircraft outside the state. If such written proof is  
233 unavailable, within 30 days the purchaser shall provide proof  
234 that the purchaser applied for such license, title,  
235 registration, or documentation. The purchaser shall forward to  
236 the department proof of title, license, registration, or  
237 documentation upon receipt;

238 c. The purchaser, within 10 days of removing the boat or  
239 aircraft from Florida, furnishes the department with proof of  
240 removal in the form of receipts for fuel, dockage, slippage,  
241 tie-down, or hangaring from outside of Florida. The information  
242 so provided must clearly and specifically identify the boat or



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243 aircraft;

244         d. The selling dealer, within 5 days of the date of sale,  
245 provides to the department a copy of the sales invoice, closing  
246 statement, bills of sale, and the original affidavit signed by  
247 the purchaser attesting that he or she has read the provisions  
248 of this section;

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

251         f. Unless the nonresident purchaser of a boat of 5 net tons  
252 of admeasurement or larger intends to remove the boat from this  
253 state within 10 days after the date of purchase or when the boat  
254 is repaired or altered, within 20 days after completion of the  
255 repairs or alterations, the nonresident purchaser applies to the  
256 selling dealer for a decal which authorizes 90 days after the  
257 date of purchase for removal of the boat. The nonresident  
258 purchaser of a qualifying boat may apply to the selling dealer  
259 within 60 days after the date of purchase for an extension decal  
260 that authorizes the boat to remain in this state for an  
261 additional 90 days, but not more than a total of 180 days,  
262 before the nonresident purchaser is required to pay the tax  
263 imposed by this chapter. The department is authorized to issue  
264 decals in advance to dealers. The number of decals issued in  
265 advance to a dealer shall be consistent with the volume of the  
266 dealer's past sales of boats which qualify under this sub-  
267 subparagraph. The selling dealer or his or her agent shall mark  
268 and affix the decals to qualifying boats in the manner  
269 prescribed by the department, before delivery of the boat.

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



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272 extension decal shall cost \$425.

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

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

278 (IV) The department is authorized to require dealers who  
279 purchase decals to file reports with the department and may  
280 prescribe all necessary records by rule. All such records are  
281 subject to inspection by the department.

282 (V) Any dealer or his or her agent who issues a decal  
283 falsely, fails to affix a decal, mismarks the expiration date of  
284 a decal, or fails to properly account for decals will be  
285 considered prima facie to have committed a fraudulent act to  
286 evade the tax and will be liable for payment of the tax plus a  
287 mandatory penalty of 200 percent of the tax, and shall be liable  
288 for fine and punishment as provided by law for a conviction of a  
289 misdemeanor of the first degree, as provided in s. 775.082 or s.  
290 775.083.

291 (VI) Any nonresident purchaser of a boat who removes a  
292 decal before permanently removing the boat from the state, or  
293 defaces, changes, modifies, or alters a decal in a manner  
294 affecting its expiration date before its expiration, or who  
295 causes or allows the same to be done by another, will be  
296 considered prima facie to have committed a fraudulent act to  
297 evade the tax and will be liable for payment of the tax plus a  
298 mandatory penalty of 200 percent of the tax, and shall be liable  
299 for fine and punishment as provided by law for a conviction of a  
300 misdemeanor of the first degree, as provided in s. 775.082 or s.



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301 775.083.

302 (VII) The department is authorized to adopt rules necessary  
303 to administer and enforce this subparagraph and to publish the  
304 necessary forms and instructions.

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

308

309 If the purchaser fails to remove the qualifying boat from this  
310 state within the maximum 180 days after purchase or a  
311 nonqualifying boat or an aircraft from this state within 10 days  
312 after purchase or, when the boat or aircraft is repaired or  
313 altered, within 20 days after completion of such repairs or  
314 alterations, or permits the boat or aircraft to return to this  
315 state within 6 months from the date of departure, except as  
316 provided in s. 212.08(7)(fff), or if the purchaser fails to  
317 furnish the department with any of the documentation required by  
318 this subparagraph within the prescribed time period, the  
319 purchaser shall be liable for use tax on the cost price of the  
320 boat or aircraft and, in addition thereto, payment of a penalty  
321 to the Department of Revenue equal to the tax payable. This  
322 penalty shall be in lieu of the penalty imposed by s. 212.12(2).  
323 The maximum 180-day period following the sale of a qualifying  
324 boat tax-exempt to a nonresident may not be tolled for any  
325 reason.

326 (b) At the rate of 6 percent of the cost price of each item  
327 or article of tangible personal property when the same is not  
328 sold but is used, consumed, distributed, or stored for use or  
329 consumption in this state; however, for tangible property



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330 originally purchased exempt from tax for use exclusively for  
331 lease and which is converted to the owner's own use, tax may be  
332 paid on the fair market value of the property at the time of  
333 conversion. If the fair market value of the property cannot be  
334 determined, use tax at the time of conversion shall be based on  
335 the owner's acquisition cost. Under no circumstances may the  
336 aggregate amount of sales tax from leasing the property and use  
337 tax due at the time of conversion be less than the total sales  
338 tax that would have been due on the original acquisition cost  
339 paid by the owner.

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

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

346 a. If the motor vehicle is rented in Florida, the entire  
347 amount of such rental is taxable, even if the vehicle is dropped  
348 off in another state.

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

351 2. Except as provided in subparagraph 3., for the lease or  
352 rental of a motor vehicle for a period of not less than 12  
353 months, sales tax is due on the lease or rental payments if the  
354 vehicle is registered in this state; provided, however, that no  
355 tax shall be due if the taxpayer documents use of the motor  
356 vehicle outside this state and tax is being paid on the lease or  
357 rental payments in another state.

358 3. The tax imposed by this chapter does not apply to the



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359 lease or rental of a commercial motor vehicle as defined in s.  
360 316.003(13) (a) to one lessee or rentee for a period of not less  
361 than 12 months when tax was paid on the purchase price of such  
362 vehicle by the lessor. To the extent tax was paid with respect  
363 to the purchase of such vehicle in another state, territory of  
364 the United States, or the District of Columbia, the Florida tax  
365 payable shall be reduced in accordance with the provisions of s.  
366 212.06(7). This subparagraph shall only be available when the  
367 lease or rental of such property is an established business or  
368 part of an established business or the same is incidental or  
369 germane to such business.

370 (d) At the rate of 6 percent of the lease or rental price  
371 paid by a lessee or rentee, or contracted or agreed to be paid  
372 by a lessee or rentee, to the owner of the tangible personal  
373 property.

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

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

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

380 (II) If the sale or recharge of the prepaid calling  
381 arrangement does not take place at the dealer's place of  
382 business, it shall be deemed to have taken place at the  
383 customer's shipping address or, if no item is shipped, at the  
384 customer's address or the location associated with the  
385 customer's mobile telephone number.

386 (III) The sale or recharge of a prepaid calling arrangement  
387 shall be treated as a sale of tangible personal property for



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388 purposes of this chapter, regardless of whether a tangible item  
389 evidencing such arrangement is furnished to the purchaser, and  
390 such sale within this state subjects the selling dealer to the  
391 jurisdiction of this state for purposes of this subsection.

392 (IV) No additional tax under this chapter or chapter 202 is  
393 due or payable if a purchaser of a prepaid calling arrangement  
394 who has paid tax under this chapter on the sale or recharge of  
395 such arrangement applies one or more units of the prepaid  
396 calling arrangement to obtain communications services as  
397 described in s. 202.11(9)(b)3., other services that are not  
398 communications services, or products.

399 b. The installation of telecommunication and telegraphic  
400 equipment.

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

405 2. Section 212.17(3), regarding credit for tax paid on  
406 charges subsequently found to be worthless, is equally  
407 applicable to any tax paid under this section on charges for  
408 prepaid calling arrangements, telecommunication or telegraph  
409 services, or electric power subsequently found to be  
410 uncollectible. As used in this paragraph, the term "charges"  
411 does not include any excise or similar tax levied by the Federal  
412 Government, a political subdivision of this state, or a  
413 municipality upon the purchase, sale, or recharge of prepaid  
414 calling arrangements or upon the purchase or sale of  
415 telecommunication, television system program, or telegraph  
416 service or electric power, which tax is collected by the seller





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417 from the purchaser.

418 (f) At the rate of 6 percent on the sale, rental, use,  
419 consumption, or storage for use in this state of machines and  
420 equipment, and parts and accessories therefor, used in  
421 manufacturing, processing, compounding, producing, mining, or  
422 quarrying personal property for sale or to be used in furnishing  
423 communications, transportation, or public utility services.

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

426 2. Notwithstanding other provisions of this chapter,  
427 inserts of printed materials which are distributed with a  
428 newspaper or magazine are a component part of the newspaper or  
429 magazine, and neither the sale nor use of such inserts is  
430 subject to tax when:

431 a. Printed by a newspaper or magazine publisher or  
432 commercial printer and distributed as a component part of a  
433 newspaper or magazine, which means that the items after being  
434 printed are delivered directly to a newspaper or magazine  
435 publisher by the printer for inclusion in editions of the  
436 distributed newspaper or magazine;

437 b. Such publications are labeled as part of the designated  
438 newspaper or magazine publication into which they are to be  
439 inserted; and

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

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



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446 charges for the applicable reporting period by a divisor,  
447 determined as provided in this subparagraph, to compute gross  
448 taxable sales, and then subtracting gross taxable sales from  
449 gross receipts to arrive at the amount of tax due. For counties  
450 that do not impose a discretionary sales surtax, the divisor is  
451 equal to 1.04; for counties that impose a 0.5 percent  
452 discretionary sales surtax, the divisor is equal to 1.045; for  
453 counties that impose a 1 percent discretionary sales surtax, the  
454 divisor is equal to 1.050; and for counties that impose a 2  
455 percent sales surtax, the divisor is equal to 1.060. If a county  
456 imposes a discretionary sales surtax that is not listed in this  
457 subparagraph, the department shall make the applicable divisor  
458 available in an electronic format or otherwise. Additional  
459 divisors shall bear the same mathematical relationship to the  
460 next higher and next lower divisors as the new surtax rate bears  
461 to the next higher and next lower surtax rates for which  
462 divisors have been established. When a machine is activated by a  
463 slug, token, coupon, or any similar device which has been  
464 purchased, the tax is on the price paid by the user of the  
465 device for such device.

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

470 a. If the owner of the machine is also the operator of it,  
471 he or she shall be liable for payment of the tax without any  
472 deduction for rent or a license fee paid to a location owner for  
473 the use of any real property on which the machine is located.

474 b. If the owner or lessee of the machine is also its



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475 operator, he or she shall be liable for payment of the tax on  
476 the purchase or lease of the machine, as well as the tax on  
477 sales generated through the machine.

478 c. If the proprietor of the business where the machine is  
479 located does not own the machine, he or she shall be deemed to  
480 be the lessee and operator of the machine and is responsible for  
481 the payment of the tax on sales, unless such responsibility is  
482 otherwise provided for in a written agreement between him or her  
483 and the machine owner.

484 3.a. An operator of a coin-operated amusement machine may  
485 not operate or cause to be operated in this state any such  
486 machine until the operator has registered with the department  
487 and has conspicuously displayed an identifying certificate  
488 issued by the department. The identifying certificate shall be  
489 issued by the department upon application from the operator. The  
490 identifying certificate shall include a unique number, and the  
491 certificate shall be permanently marked with the operator's  
492 name, the operator's sales tax number, and the maximum number of  
493 machines to be operated under the certificate. An identifying  
494 certificate shall not be transferred from one operator to  
495 another. The identifying certificate must be conspicuously  
496 displayed on the premises where the coin-operated amusement  
497 machines are being operated.

498 b. The operator of the machine must obtain an identifying  
499 certificate before the machine is first operated in the state  
500 and by July 1 of each year thereafter. The annual fee for each  
501 certificate shall be based on the number of machines identified  
502 on the application times \$30 and is due and payable upon  
503 application for the identifying device. The application shall



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504 contain the operator's name, sales tax number, business address  
505 where the machines are being operated, and the number of  
506 machines in operation at that place of business by the operator.  
507 No operator may operate more machines than are listed on the  
508 certificate. A new certificate is required if more machines are  
509 being operated at that location than are listed on the  
510 certificate. The fee for the new certificate shall be based on  
511 the number of additional machines identified on the application  
512 form times \$30.

513 c. A penalty of \$250 per machine is imposed on the operator  
514 for failing to properly obtain and display the required  
515 identifying certificate. A penalty of \$250 is imposed on the  
516 lessee of any machine placed in a place of business without a  
517 proper current identifying certificate. Such penalties shall  
518 apply in addition to all other applicable taxes, interest, and  
519 penalties.

520 d. Operators of coin-operated amusement machines must  
521 obtain a separate sales and use tax certificate of registration  
522 for each county in which such machines are located. One sales  
523 and use tax certificate of registration is sufficient for all of  
524 the operator's machines within a single county.

525 4. The provisions of this paragraph do not apply to coin-  
526 operated amusement machines owned and operated by churches or  
527 synagogues.

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

532 6. The department may adopt rules necessary to administer



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533 the provisions of this paragraph.

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

535 a. Detective, burglar protection, and other protection  
536 services (NAICS National Numbers 561611, 561612, 561613, and  
537 561621). Fingerprint services required under s. 790.06 or s.  
538 790.062 are not subject to the tax. Any law enforcement officer,  
539 as defined in s. 943.10, who is performing approved duties as  
540 determined by his or her local law enforcement agency in his or  
541 her capacity as a law enforcement officer, and who is subject to  
542 the direct and immediate command of his or her law enforcement  
543 agency, and in the law enforcement officer's uniform as  
544 authorized by his or her law enforcement agency, is performing  
545 law enforcement and public safety services and is not performing  
546 detective, burglar protection, or other protective services, if  
547 the law enforcement officer is performing his or her approved  
548 duties in a geographical area in which the law enforcement  
549 officer has arrest jurisdiction. Such law enforcement and public  
550 safety services are not subject to tax irrespective of whether  
551 the duty is characterized as "extra duty," "off-duty," or  
552 "secondary employment," and irrespective of whether the officer  
553 is paid directly or through the officer's agency by an outside  
554 source. The term "law enforcement officer" includes full-time or  
555 part-time law enforcement officers, and any auxiliary law  
556 enforcement officer, when such auxiliary law enforcement officer  
557 is working under the direct supervision of a full-time or part-  
558 time law enforcement officer.

559 b. Nonresidential cleaning, excluding cleaning of the  
560 interiors of transportation equipment, and nonresidential  
561 building pest control services (NAICS National Numbers 561710



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562 and 561720).

563           2. As used in this paragraph, "NAICS" means those  
564 classifications contained in the North American Industry  
565 Classification System, as published in 2007 by the Office of  
566 Management and Budget, Executive Office of the President.

567           3. Charges for detective, burglar protection, and other  
568 protection security services performed in this state but used  
569 outside this state are exempt from taxation. Charges for  
570 detective, burglar protection, and other protection security  
571 services performed outside this state and used in this state are  
572 subject to tax.

573           4. If a transaction involves both the sale or use of a  
574 service taxable under this paragraph and the sale or use of a  
575 service or any other item not taxable under this chapter, the  
576 consideration paid must be separately identified and stated with  
577 respect to the taxable and exempt portions of the transaction or  
578 the entire transaction shall be presumed taxable. The burden  
579 shall be on the seller of the service or the purchaser of the  
580 service, whichever applicable, to overcome this presumption by  
581 providing documentary evidence as to which portion of the  
582 transaction is exempt from tax. The department is authorized to  
583 adjust the amount of consideration identified as the taxable and  
584 exempt portions of the transaction; however, a determination  
585 that the taxable and exempt portions are inaccurately stated and  
586 that the adjustment is applicable must be supported by  
587 substantial competent evidence.

588           5. Each seller of services subject to sales tax pursuant to  
589 this paragraph shall maintain a monthly log showing each  
590 transaction for which sales tax was not collected because the



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591 services meet the requirements of subparagraph 3. for out-of-  
592 state use. The log must identify the purchaser's name, location  
593 and mailing address, and federal employer identification number,  
594 if a business, or the social security number, if an individual,  
595 the service sold, the price of the service, the date of sale,  
596 the reason for the exemption, and the sales invoice number. The  
597 monthly log shall be maintained pursuant to the same  
598 requirements and subject to the same penalties imposed for the  
599 keeping of similar records pursuant to this chapter.

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

604 a. Is not legal tender;

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

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

609 2. Such tax shall be at a rate of 6 percent of the price at  
610 which the coin or currency is sold, exchanged, or traded, except  
611 that, with respect to a coin or currency which is legal tender  
612 of the United States and which is sold, exchanged, or traded,  
613 such tax shall not be levied.

614 3. There are exempt from this tax exchanges of coins or  
615 currency which are in general circulation in, and legal tender  
616 of, one nation for coins or currency which are in general  
617 circulation in, and legal tender of, another nation when  
618 exchanged solely for use as legal tender and at an exchange rate  
619 based on the relative value of each as a medium of exchange.



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620           4. With respect to any transaction that involves the sale  
621 of coins or currency taxable under this paragraph in which the  
622 taxable amount represented by the sale of such coins or currency  
623 exceeds \$500, the entire amount represented by the sale of such  
624 coins or currency is exempt from the tax imposed under this  
625 paragraph. The dealer must maintain proper documentation, as  
626 prescribed by rule of the department, to identify that portion  
627 of a transaction which involves the sale of coins or currency  
628 and is exempt under this subparagraph.

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

633           (1) Florists located in this state are liable for sales tax  
634 on sales to retail customers regardless of where or by whom the  
635 items sold are to be delivered. Florists located in this state  
636 are not liable for sales tax on payments received from other  
637 florists for items delivered to customers in this state.

638           (m) Operators of game concessions or other concessionaires  
639 who customarily award tangible personal property as prizes may,  
640 in lieu of paying tax on the cost price of such property, pay  
641 tax on 25 percent of the gross receipts from such concession  
642 activity.

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

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





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

651 (5) Notwithstanding any other provision of this chapter,  
652 the maximum amount of tax imposed under this chapter and  
653 collected on each sale or use of a boat in this state may not  
654 exceed \$18,000 and on each repair of a boat in this state may  
655 not exceed \$60,000.

656 Section 6. Effective October 1, 2019, section 212.0596,  
657 Florida Statutes, is amended to read:

658 212.0596 Taxation of remote mail-order sales.—

659 (1) For purposes of this chapter, a "remote mail-order  
660 sale" is a retail sale of tangible personal property, ordered by  
661 mail, telephone, the Internet, or other means of communication,  
662 from a dealer who receives the order outside of this state in  
663 ~~another state of the United States, or in a commonwealth,~~  
664 ~~territory, or other area under the jurisdiction of the United~~  
665 ~~States,~~ and transports the property or causes the property to be  
666 transported, ~~whether or not by mail,~~ from any jurisdiction ~~of~~  
667 ~~the United States,~~ including this state, to a person in this  
668 state, including the person who ordered the property.

669 (2) Every dealer as defined in s. 212.06(2)(c) who makes a  
670 remote mail-order sale is subject to the power of this state to  
671 levy and collect the tax imposed by this chapter when any of the  
672 following applies:

673 (a) The dealer is a corporation doing business under the  
674 laws of this state or is a person domiciled in, a resident of,  
675 or a citizen of, this state.†

676 (b) The dealer maintains retail establishments or offices  
677 in this state, regardless of whether the remote mail-order sales



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678 thus subject to taxation by this state result from or are  
679 related in any other way to the activities of such  
680 establishments or offices.†

681 (c) The dealer has agents in this state who solicit  
682 business or transact business on behalf of the dealer,  
683 regardless of whether the remote mail-order sales thus subject  
684 to taxation by this state result from or are related in any  
685 other way to such solicitation or transaction of business,  
686 except that a printer who mails or delivers for an out-of-state  
687 print purchaser material the printer printed for it is ~~shall~~ not  
688 ~~be~~ deemed to be the print purchaser's agent for purposes of this  
689 paragraph.†

690 (d) The property was delivered in this state in fulfillment  
691 of a sales contract that was entered into in this state, in  
692 accordance with applicable conflict of laws rules, when a person  
693 in this state accepted an offer by ordering the property.†

694 (e) The dealer, by purposefully or systematically  
695 exploiting the market provided by this state by any media-  
696 assisted, media-facilitated, or media-solicited means,  
697 including, but not limited to, direct mail advertising,  
698 unsolicited distribution of catalogs, computer-assisted  
699 shopping, television, radio, or other electronic media, or  
700 magazine or newspaper advertisements or other media, creates  
701 nexus with this state.†

702 (f) Through compact or reciprocity with another  
703 jurisdiction of the United States, that jurisdiction uses its  
704 taxing power and its jurisdiction over the retailer in support  
705 of this state's taxing power.†

706 (g) The dealer consents, expressly or by implication, to



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707 the imposition of the tax imposed under ~~by~~ this chapter.†  
708 (h) The dealer is subject to service of process under s.  
709 48.181.†  
710 (i) The dealer's remote ~~mail-order~~ sales are subject to the  
711 power of this state to tax sales or to require the dealer to  
712 collect use taxes under a statute or statutes of the United  
713 States.†  
714 (j) The dealer owns real property or tangible personal  
715 property that is physically in this state. For purposes of this  
716 paragraph, except that a dealer whose only property, (including  
717 property owned by an affiliate,) in this state is located at the  
718 premises of a printer with which the vendor has contracted for  
719 printing, ~~and is either a final printed product, or~~ property  
720 that which becomes a part of the final printed product, or  
721 property from which the printed product is produced, is not  
722 deemed to own such property. ~~for purposes of this paragraph;~~  
723 (k) The dealer, while not having nexus with this state on  
724 any of the bases described in paragraphs (a)-(j) or paragraph  
725 (l), is a corporation that is a member of an affiliated group of  
726 corporations, as defined in s. 1504(a) of the Internal Revenue  
727 Code, whose members are includable under s. 1504(b) of the  
728 Internal Revenue Code and whose members are eligible to file a  
729 consolidated tax return for federal corporate income tax  
730 purposes and any parent or subsidiary corporation in the  
731 affiliated group has nexus with this state on one or more of the  
732 bases described in paragraphs (a)-(j) or paragraph (l).† ~~or~~  
733 (l) ~~The dealer or~~ The dealer's activities, have sufficient  
734 ~~connection with or relationship to this state or its residents~~  
735 ~~of some type~~ other than those described in paragraphs (a)-(k),†



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736 result in making a substantial number of remote sales under  
737 subsection (3) to create nexus empowering this state to tax its  
738 mail order sales or to require the dealer to collect sales tax  
739 or accrue use tax.

740 (3) (a) Every person dealer engaged in the business of  
741 making a substantial number of remote mail order sales is a  
742 dealer for purposes of this chapter subject to the requirements  
743 of this chapter for cooperation of dealers in collection of  
744 taxes and in administration of this chapter, except that no fee  
745 shall be imposed upon such dealer for carrying out any required  
746 activity.

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

749 1. In the previous calendar year, conducting 200 or more  
750 retail sales of tangible personal property to be delivered to a  
751 location within this state; or

752 2. In the previous calendar year, conducting any number of  
753 retail sales of tangible personal property to be delivered to a  
754 location within this state, in an amount exceeding \$100,000.

755  
756 For purposes of this paragraph, tangible personal property  
757 delivered to a location within this state is presumed to be  
758 used, consumed, distributed, or stored to be used or consumed in  
759 this state.

760 (4) The department shall, with the consent of another  
761 jurisdiction of the United States whose cooperation is needed,  
762 enforce this chapter in that jurisdiction, either directly or,  
763 at the option of that jurisdiction, through its officers or  
764 employees.



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765 (5) The tax required under this section to be collected and  
766 any amount unreturned to a purchaser that is not tax but was  
767 collected from the purchaser under the representation that it  
768 was tax constitute funds of the State of Florida from the moment  
769 of collection.

770 (6) ~~Notwithstanding other provisions of law, a dealer who~~  
771 ~~makes a mail order sale in this state is exempt from collecting~~  
772 ~~and remitting any local option surtax on the sale, unless the~~  
773 ~~dealer is located in a county that imposes a surtax within the~~  
774 ~~meaning of s. 212.054(3)(a), the order is placed through the~~  
775 ~~dealer's location in such county, and the property purchased is~~  
776 ~~delivered into such county or into another county in this state~~  
777 ~~that levies the surtax, in which case the provisions of s.~~  
778 ~~212.054(3)(a) are applicable.~~

779 (7) The department may establish by rule procedures for  
780 collecting the use tax from unregistered persons who but for  
781 their remote mail order purchases would not be required to remit  
782 sales or use tax directly to the department. The procedures may  
783 provide for waiver of registration, provisions for irregular  
784 remittance of tax, elimination of the collection allowance, and  
785 nonapplication of local option surtaxes.

786 Section 7. Effective October 1, 2019, section 212.05965,  
787 Florida Statutes, is created to read:

788 212.05965 Taxation of marketplace sales.-

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

790 (a) "Marketplace" means any physical place or electronic  
791 medium through which tangible personal property is offered for  
792 sale.

793 (b) "Marketplace provider" means any person who:



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794 1. Facilitates a retail sale by a marketplace seller by  
795 listing or advertising for sale by the marketplace seller  
796 tangible personal property in a marketplace; and

797 2. Directly, or indirectly through agreements or  
798 arrangements with third parties, collects payment from the  
799 customer and transmits the payment to the marketplace seller,  
800 regardless of whether the marketplace provider receives  
801 compensation or other consideration in exchange for its  
802 services.

803  
804 The term does not include any person who solely provides  
805 handling or transportation services not subject to tax under  
806 this chapter or travel agency services. For purposes of this  
807 paragraph, the term "travel agency services" means arranging,  
808 booking, or otherwise facilitating, for a commission, fee, or  
809 other consideration, vacation or travel packages, a rental car,  
810 or other travel reservations; tickets for domestic or foreign  
811 travel by air, rail, ship, bus, or other medium of  
812 transportation; or hotel or other lodging accommodations.

813 (c) "Marketplace seller" means a person who has an  
814 agreement with a marketplace provider and who makes retail sales  
815 of tangible personal property through a marketplace owned,  
816 operated, or controlled by a marketplace provider.

817 (2) Every marketplace provider with a physical presence in  
818 this state or who is making or facilitating through a  
819 marketplace a substantial number of remote sales as defined in  
820 s. 212.0596(3)(b) is subject to the requirements imposed by this  
821 chapter on dealers for registration and for the collection and  
822 remittance of taxes and the administration of this chapter.



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823       (3) A marketplace provider shall certify to its marketplace  
824 sellers that it will collect and remit the tax imposed under  
825 this chapter on taxable retail sales made through the  
826 marketplace. Such certification may be included in the agreement  
827 between the marketplace provider and marketplace seller.

828       (4) (a) A marketplace seller may not collect and remit the  
829 tax under this chapter on a taxable retail sale when the sale is  
830 made through the marketplace and the marketplace provider  
831 certifies, as required under subsection (3), that it will  
832 collect and remit such tax. A marketplace seller shall exclude  
833 such sales made through the marketplace from the marketplace  
834 seller's tax return under s. 212.11.

835       (b)1. A marketplace seller with a physical presence in this  
836 state shall register and shall collect and remit the tax imposed  
837 under this chapter on all taxable retail sales made outside of  
838 the marketplace.

839       2. A marketplace seller making a substantial number of  
840 remote sales as defined in s. 212.0596(3)(b) shall register and  
841 shall collect and remit the tax imposed under this chapter on  
842 all taxable retail sales made outside of the marketplace. Sales  
843 made through the marketplace are not considered for purposes of  
844 determining if the seller has made a substantial number of  
845 remote sales.

846       (5) (a) A marketplace provider shall allow the department to  
847 examine and audit its books and records pursuant to s. 212.13.  
848 For retail sales facilitated through a marketplace, the  
849 department may not examine or audit the books and records of  
850 marketplace sellers, nor may the department assess marketplace  
851 sellers except to the extent the marketplace provider seeks



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852 relief under paragraph (b). The department may examine, audit,  
853 and assess a marketplace seller for retail sales made outside of  
854 the marketplace under paragraph (4) (b).

855 (b) The marketplace provider is relieved of liability for  
856 the tax for the retail sale, and the marketplace seller or  
857 customer is liable for the tax imposed under this chapter, if  
858 the marketplace provider demonstrates to the satisfaction of the  
859 department that the marketplace provider made a reasonable  
860 effort to obtain accurate information related to the retail  
861 sales facilitated through the marketplace from the marketplace  
862 seller, but that the failure to collect and pay the correct  
863 amount of tax imposed under this chapter was due to incorrect or  
864 incomplete information provided by the marketplace seller to the  
865 marketplace provider. This paragraph does not apply to a retail  
866 sale for which the marketplace provider is the seller, if the  
867 marketplace provider and marketplace seller are related parties  
868 or if transactions between a marketplace seller and marketplace  
869 buyer are not conducted at arm's length.

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

872 (7) A marketplace provider and marketplace seller may agree  
873 by contract or otherwise that if a marketplace provider pays the  
874 tax imposed under this chapter on a retail sale facilitated  
875 through a marketplace for a marketplace seller as a result of an  
876 audit or otherwise, the marketplace provider has the right to  
877 recover such tax and any associated interest and penalties from  
878 the marketplace seller.

879 (8) Consistent with s. 213.21, the department may  
880 compromise any tax, interest, or penalty assessed on retail





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881 sales conducted through a marketplace.

882 (9) For purposes of this section, the limitations in ss.  
883 213.30(3) and 213.756(2) apply.

884 (10) This section may not be construed to authorize the  
885 state to collect sales tax from both the marketplace provider  
886 and the marketplace seller on the same retail sale.

887 Section 8. Effective October 1, 2019, paragraph (c) of  
888 subsection (2) and paragraph (a) of subsection (5) of section  
889 212.06, Florida Statutes, are amended to read:

890 212.06 Sales, storage, use tax; collectible from dealers;  
891 "dealer" defined; dealers to collect from purchasers;  
892 legislative intent as to scope of tax.—

893 (2)

894 (c) The term "dealer" is further defined to mean every  
895 person, as used in this chapter, who sells at retail or who  
896 offers for sale at retail, or who has in his or her possession  
897 for sale at retail; or for use, consumption, or distribution; or  
898 for storage to be used or consumed in this state, tangible  
899 personal property as defined herein, including a retailer who  
900 transacts a remote ~~mail order~~ sale and a marketplace provider  
901 who facilitates a retail sale through a marketplace.

902 (5) (a) 1. Except as provided in subparagraph 2., it is not  
903 the intention of this chapter to levy a tax upon tangible  
904 personal property imported, produced, or manufactured in this  
905 state for export, provided that tangible personal property may  
906 not be considered as being imported, produced, or manufactured  
907 for export unless the importer, producer, or manufacturer  
908 delivers the same to a licensed exporter for exporting or to a  
909 common carrier for shipment outside the state or mails the same



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910 by United States mail to a destination outside the state; or, in  
911 the case of aircraft being exported under their own power to a  
912 destination outside the continental limits of the United States,  
913 by submission to the department of a duly signed and validated  
914 United States customs declaration, showing the departure of the  
915 aircraft from the continental United States; and further with  
916 respect to aircraft, the canceled United States registry of said  
917 aircraft; or in the case of parts and equipment installed on  
918 aircraft of foreign registry, by submission to the department of  
919 documentation, the extent of which shall be provided by rule,  
920 showing the departure of the aircraft from the continental  
921 United States; nor is it the intention of this chapter to levy a  
922 tax on any sale which the state is prohibited from taxing under  
923 the Constitution or laws of the United States. Every retail sale  
924 made to a person physically present at the time of sale shall be  
925 presumed to have been delivered in this state.

926       2.a. Notwithstanding subparagraph 1., a tax is levied on  
927 each sale of tangible personal property to be transported to a  
928 cooperating state as defined in sub-subparagraph c., at the rate  
929 specified in sub-subparagraph d. However, a Florida dealer will  
930 be relieved from the requirements of collecting taxes pursuant  
931 to this subparagraph if the Florida dealer obtains from the  
932 purchaser an affidavit setting forth the purchaser's name,  
933 address, state taxpayer identification number, and a statement  
934 that the purchaser is aware of his or her state's use tax laws,  
935 is a registered dealer in Florida or another state, or is  
936 purchasing the tangible personal property for resale or is  
937 otherwise not required to pay the tax on the transaction. The  
938 department may, by rule, provide a form to be used for the



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939 purposes set forth herein.

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

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

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

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

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

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

966 c. For purposes of this subparagraph, "sales of tangible  
967 personal property to be transported to a cooperating state"



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968 means remote ~~mail-order~~ sales to a person who is in the  
969 cooperating state at the time the order is executed, from a  
970 dealer who receives that order in this state.

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

976 e. The tax levied by sub-subparagraph a., when collected,  
977 shall be held in the State Treasury in trust for the benefit of  
978 the cooperating state and shall be paid to it at a time agreed  
979 upon between the department, acting for this state, and the  
980 cooperating state or the department or agency designated by it  
981 to act for it; however, such payment shall in no event be made  
982 later than 30 days from the last day of the calendar quarter  
983 after the tax was collected. Funds held in trust for the benefit  
984 of a cooperating state shall not be subject to the service  
985 charges imposed by s. 215.20.

986 f. The department is authorized to perform such acts and to  
987 provide such cooperation to a cooperating state with reference  
988 to the tax levied by sub-subparagraph a. as is required of the  
989 cooperating state by sub-subparagraph b.

990 g. In furtherance of this act, dealers selling tangible  
991 personal property for delivery in another state shall make  
992 available to the department, upon request of the department,  
993 records of all tangible personal property so sold. Such records  
994 shall include a description of the property, the name and  
995 address of the purchaser, the name and address of the person to  
996 whom the property was sent, the purchase price of the property,



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997 information regarding whether sales tax was paid in this state  
998 on the purchase price, and such other information as the  
999 department may by rule prescribe.

1000 Section 9. Effective July 1, 2019, section 212.094, Florida  
1001 Statutes, is created to read:

1002 212.094 Sales tax refund for eligible job training  
1003 organizations.-

1004 (1) As used in this section, the term:

1005 (a) "Eligible job training organization" means an  
1006 organization that:

1007 1. Is an exempt organization under s. 501(c)(3) of the  
1008 Internal Revenue Code of 1986, as amended;

1009 2. Provides job training and employment services to low-  
1010 income persons as defined in s. 420.0004, individuals who have  
1011 workplace disadvantages, or individuals with barriers to  
1012 employment; and

1013 3. Is accredited by the Commission on Accreditation of  
1014 Rehabilitation Facilities.

1015 (b) "Growth in employment hours" means the growth in the  
1016 number of hours worked by employees at an eligible job training  
1017 organization in the most recently completed state fiscal year,  
1018 compared to the number of hours worked by employees at the  
1019 eligible job training organization in the state fiscal year  
1020 immediately preceding the most recently completed state fiscal  
1021 year.

1022 (c) "Job training and employment services" means programs  
1023 and services that are provided to improve job readiness, to  
1024 assist workers in gaining employment and adapting to the  
1025 changing labor market, and to help workers achieve success



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1026 through self-sufficiency.

1027 (2) An eligible job training organization is entitled to a  
1028 refund of 10 percent of the sales tax remitted to the department  
1029 during the most recently completed state fiscal year on its  
1030 sales of goods donated to the organization. The organization  
1031 must reserve the refund exclusively for use in any of the  
1032 following:

1033 (a) Growth in employment hours.

1034 (b) Job training and employment services to low-income  
1035 persons as defined in s. 420.0004, individuals who have  
1036 workplace disadvantages, and individuals with barriers to  
1037 employment.

1038 (c) Job training and employment services for veterans.

1039 (3) The total amount of refunds that the department may  
1040 issue under this section may not exceed \$2 million in any state  
1041 fiscal year. Refunds must be granted on a first-come, first-  
1042 served basis.

1043 (4) An organization seeking a refund under this section  
1044 must first submit an application to the Department of Economic  
1045 Opportunity by July 15, which sets forth that the organization  
1046 meets the requirements under paragraph (1) (a) and that the  
1047 refund will be used exclusively for the purposes listed in  
1048 subsection (2). The organization must submit supporting  
1049 information as prescribed by the Department of Economic  
1050 Opportunity by rule.

1051 (5) (a) The Department of Economic Opportunity shall verify  
1052 the application and notify the organization of its determination  
1053 within 15 days after receiving a complete application. The  
1054 Department of Economic Opportunity shall communicate its



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1055 decision in writing or, if agreed to by the applicant, via e-  
1056 mail.

1057 (b) If the Department of Economic Opportunity approves the  
1058 application, the notice sent to the eligible job training  
1059 organization must include a certification that the organization  
1060 is eligible to receive a refund of certain sales and use tax  
1061 remitted under this chapter. The Department of Economic  
1062 Opportunity shall transmit a copy of the notice and  
1063 certification, if applicable, to the department.

1064 (c) Upon the Department of Economic Opportunity's issuance  
1065 of a certification, the certification remains valid so long as  
1066 the eligible job training organization is in compliance with the  
1067 requirements of this section.

1068 (6) An eligible job training organization certified under  
1069 this section must apply to the department between August 1 and  
1070 August 31 of each year to receive a refund. A copy of the  
1071 certification must be included in an eligible job training  
1072 organization's first application for a refund, but is not  
1073 required to be included in subsequent applications. The  
1074 organization must submit any information required by the  
1075 department as part of its application for the refund.

1076 (7) For purposes of this section, an eligible job training  
1077 organization comprised of commonly owned and controlled entities  
1078 is deemed to be a single organization.

1079 (8) By August 1 following each state fiscal year in which  
1080 an eligible job training organization received a refund pursuant  
1081 to subsection (2), the organization must provide a report to the  
1082 Department of Economic Opportunity regarding the use of the  
1083 funds in accordance with subsection (2). The report must include



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1084 at least all of the following:

1085 (a) The amount of the refund used to create growth in  
1086 employment hours.

1087 (b) The total growth in employment hours.

1088 (c) The amount of the refund used for job training and  
1089 employment services.

1090 (d) The number of individuals who participated in job  
1091 training and employment services at the eligible job training  
1092 organization.

1093 (e) A statement declaring that the eligible job training  
1094 organization continues to meet the requirements of this section.

1095 (9) (a) The Department of Economic Opportunity may adopt  
1096 rules to administer this section, including rules for the  
1097 approval and disapproval of applications.

1098 (b) If the Department of Economic Opportunity determines  
1099 that an eligible job training organization no longer qualifies  
1100 for the refund under this section, the Department of Economic  
1101 Opportunity must notify the department by August 31. The  
1102 department may not issue a refund after receiving such  
1103 notification.

1104 (c) The overpayment of a refund or a refund issued to an  
1105 ineligible organization is subject to repayment and interest at  
1106 the rate calculated pursuant to s. 213.235.

1107 Section 10. Effective October 1, 2019, paragraph (a) of  
1108 subsection (1) and paragraph (a) of subsection (5) of section  
1109 212.12, Florida Statutes, are amended to read:

1110 212.12 Dealer's credit for collecting tax; penalties for  
1111 noncompliance; powers of Department of Revenue in dealing with  
1112 delinquents; brackets applicable to taxable transactions;





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1113 records required.-

1114 (1) (a) ~~1.~~ Notwithstanding any other law and for the purpose  
1115 of compensating persons granting licenses for and the lessors of  
1116 real and personal property taxed hereunder, for the purpose of  
1117 compensating dealers in tangible personal property, for the  
1118 purpose of compensating dealers providing communication services  
1119 and taxable services, for the purpose of compensating owners of  
1120 places where admissions are collected, and for the purpose of  
1121 compensating remitters of any taxes or fees reported on the same  
1122 documents utilized for the sales and use tax, as compensation  
1123 for the keeping of prescribed records, filing timely tax  
1124 returns, and the proper accounting and remitting of taxes by  
1125 them, such seller, person, lessor, dealer, owner, and remitter  
1126 ~~(except dealers who make mail order sales)~~ who files the return  
1127 required pursuant to s. 212.11 only by electronic means and who  
1128 pays the amount due on such return only by electronic means  
1129 shall be allowed 2.5 percent of the amount of the tax due,  
1130 accounted for, and remitted to the department in the form of a  
1131 deduction. However, if the amount of the tax due and remitted to  
1132 the department by electronic means for the reporting period  
1133 exceeds \$1,200, an allowance is not allowed for all amounts in  
1134 excess of \$1,200. For purposes of this paragraph ~~subparagraph~~,  
1135 the term "electronic means" has the same meaning as provided in  
1136 s. 213.755(2) (c).

1137 ~~2. The executive director of the department is authorized~~  
1138 ~~to negotiate a collection allowance, pursuant to rules~~  
1139 ~~promulgated by the department, with a dealer who makes mail~~  
1140 ~~order sales. The rules of the department shall provide~~  
1141 ~~guidelines for establishing the collection allowance based upon~~



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1142 ~~the dealer's estimated costs of collecting the tax, the volume~~  
1143 ~~and value of the dealer's mail order sales to purchasers in this~~  
1144 ~~state, and the administrative and legal costs and likelihood of~~  
1145 ~~achieving collection of the tax absent the cooperation of the~~  
1146 ~~dealer. However, in no event shall the collection allowance~~  
1147 ~~negotiated by the executive director exceed 10 percent of the~~  
1148 ~~tax remitted for a reporting period.~~

1149 (5) (a) The department is authorized to audit or inspect the  
1150 records and accounts of dealers defined herein, including audits  
1151 or inspections of dealers who make remote ~~mail order~~ sales ~~to~~  
1152 ~~the extent permitted by another state~~, and to correct by credit  
1153 any overpayment of tax, and, in the event of a deficiency, an  
1154 assessment shall be made and collected. No administrative  
1155 finding of fact is necessary prior to the assessment of any tax  
1156 deficiency.

1157 Section 11. Effective October 1, 2019, paragraph (f) of  
1158 subsection (3) of section 212.18, Florida Statutes, is amended  
1159 to read:

1160 212.18 Administration of law; registration of dealers;  
1161 rules.—

1162 (3)

1163 (f) As used in this paragraph, the term "exhibitor" means a  
1164 person who enters into an agreement authorizing the display of  
1165 tangible personal property or services at a convention or a  
1166 trade show. The following provisions apply to the registration  
1167 of exhibitors as dealers under this chapter:

1168 1. An exhibitor whose agreement prohibits the sale of  
1169 tangible personal property or services subject to the tax  
1170 imposed in this chapter is not required to register as a dealer.



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1171           2. An exhibitor whose agreement provides for the sale at  
1172 wholesale only of tangible personal property or services subject  
1173 to the tax imposed by this chapter must obtain a resale  
1174 certificate from the purchasing dealer but is not required to  
1175 register as a dealer.

1176           3. An exhibitor whose agreement authorizes the retail sale  
1177 of tangible personal property or services subject to the tax  
1178 imposed by this chapter must register as a dealer and collect  
1179 the tax on such sales.

1180           4. An exhibitor who makes a remote ~~mail order~~ sale pursuant  
1181 to s. 212.0596 must register as a dealer.

1182

1183 A person who conducts a convention or a trade show must make his  
1184 or her exhibitor's agreements available to the department for  
1185 inspection and copying.

1186           Section 12. Paragraphs (b), (c), and (g) of subsection (1),  
1187 paragraph (a) of subsection (2), and subsections (4) and (5) of  
1188 section 220.191, Florida Statutes, are amended, paragraph (h) is  
1189 added to subsection (1) and paragraph (e) is added to subsection  
1190 (2) of that section, and paragraph (c) of subsection (2) of that  
1191 section is republished, to read:

1192           220.191 Capital investment tax credit.—

1193           (1) DEFINITIONS.—For purposes of this section:

1194           (b) "Cumulative capital investment" means the total capital  
1195 investment in land, buildings, ~~and~~ equipment, and intellectual  
1196 property made in connection with a qualifying project during the  
1197 period from the beginning of construction or start date of the  
1198 project to the commencement of operations or the completion of  
1199 the project, as applicable.



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1200 (c) "Eligible capital costs" means all expenses incurred by  
1201 a qualifying business in connection with the acquisition,  
1202 construction, installation, ~~and~~ equipping, and development of a  
1203 qualifying project during the period from the beginning of  
1204 construction or start date of the project to the commencement of  
1205 operations or the completion of the project, as applicable,  
1206 including, but not limited to:

1207 1. The costs of acquiring, constructing, installing,  
1208 equipping, and financing a qualifying project, including all  
1209 obligations incurred for labor and obligations to contractors,  
1210 subcontractors, builders, and materialmen.

1211 2. The costs of acquiring land or rights to land and any  
1212 cost incidental thereto, including recording fees.

1213 3. The costs of architectural and engineering services,  
1214 including test borings, surveys, estimates, plans and  
1215 specifications, preliminary investigations, environmental  
1216 mitigation, and supervision of construction, as well as the  
1217 performance of all duties required by or consequent to the  
1218 acquisition, construction, installation, and equipping of a  
1219 qualifying project.

1220 4. The costs associated with the installation of fixtures  
1221 and equipment; surveys, including archaeological and  
1222 environmental surveys; site tests and inspections; subsurface  
1223 site work and excavation; removal of structures, roadways, and  
1224 other surface obstructions; filling, grading, paving, and  
1225 provisions for drainage, storm water retention, and installation  
1226 of utilities, including water, sewer, sewage treatment, gas,  
1227 electricity, communications, and similar facilities; and offsite  
1228 construction of utility extensions to the boundaries of the



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1229 property.

1230 5. For the development of intellectual property, the wages,  
1231 salaries, or other compensation paid to legal residents of this  
1232 state and the cost of newly purchased computer software and  
1233 hardware unique to the project, including servers, data  
1234 processing, and visualization technologies, which are located in  
1235 and used exclusively in this state for the project.

1236  
1237 Eligible capital costs shall not include the cost of any  
1238 property previously owned or leased by the qualifying business.

1239 (g) "Qualifying project" means a facility or project in  
1240 this state which meets ~~meeting~~ one or more of the following  
1241 criteria:

1242 1. A new or expanding facility in this state which creates  
1243 at least 100 new jobs in this state and is in one of the high-  
1244 impact sectors identified by Enterprise Florida, Inc., and  
1245 certified by the Department of Economic Opportunity pursuant to  
1246 s. 288.108(6), including, but not limited to, aviation,  
1247 aerospace, automotive, and silicon technology industries.  
1248 However, between July 1, 2011, and June 30, 2014, the  
1249 requirement that a facility be in a high-impact sector is waived  
1250 for any otherwise eligible business from another state which  
1251 locates all or a portion of its business to a Disproportionally  
1252 Affected County. For purposes of this section, the term  
1253 "Disproportionally Affected County" means Bay County, Escambia  
1254 County, Franklin County, Gulf County, Okaloosa County, Santa  
1255 Rosa County, Walton County, or Wakulla County.

1256 2. A new or expanded facility in this state which is  
1257 engaged in a target industry designated pursuant to the



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1258 procedure specified in s. 288.106(2) and which is induced by  
1259 this credit to create or retain at least 1,000 jobs in this  
1260 state, provided that at least 100 of those jobs are new, pay an  
1261 annual average wage of at least 130 percent of the average  
1262 private sector wage in the area as defined in s. 288.106(2), and  
1263 make a cumulative capital investment of at least \$100 million.  
1264 Jobs may be considered retained only if there is significant  
1265 evidence that the loss of jobs is imminent. Notwithstanding  
1266 subsection (2), annual credits against the tax imposed by this  
1267 chapter may not exceed 50 percent of the increased annual  
1268 corporate income tax liability or the premium tax liability  
1269 generated by or arising out of a project qualifying under this  
1270 subparagraph. A facility that qualifies under this subparagraph  
1271 for an annual credit against the tax imposed by this chapter may  
1272 take the tax credit for a period not to exceed 5 years.

1273 3. A new or expanded headquarters facility in this state  
1274 which locates in an enterprise zone and brownfield area and is  
1275 induced by this credit to create at least 1,500 jobs which on  
1276 average pay at least 200 percent of the statewide average annual  
1277 private sector wage, as published by the Department of Economic  
1278 Opportunity, and which new or expanded headquarters facility  
1279 makes a cumulative capital investment in this state of at least  
1280 \$250 million.

1281 4. For the creation of intellectual property, a project  
1282 that may be made up of one or more projects with different start  
1283 and completion dates. The annual average wage of the project  
1284 jobs in this state must be at least 150 percent of the average  
1285 private sector wage in the area. For purposes of this  
1286 subparagraph, the term "average private sector wage in the area"



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1287 has the same meaning as in s. 288.106(2).

1288 (h) "Intellectual property" means a copyrightable project  
1289 for which the eligible capital costs are principally paid  
1290 directly or indirectly for the development of a software  
1291 product. For purposes of this paragraph, the term "software  
1292 product" includes a copyrighted application and its expansion  
1293 content made available to an end user, internal development  
1294 platforms that support the production of multiple applications,  
1295 and cloud-based services that support the functionality of  
1296 multiple applications. The project may not be solely intended  
1297 for distribution inside of this state, and at least 50 percent  
1298 of forecasted revenues for the project must be from outside of  
1299 this state.

1300 (2) (a) An annual credit against the tax imposed by this  
1301 chapter shall be granted to any qualifying business in an amount  
1302 equal to 5 percent of the eligible capital costs generated by a  
1303 qualifying project, for a period not to exceed 20 years  
1304 beginning with the commencement of operations or the completion  
1305 date of the project. For a qualifying project that meets the  
1306 criteria of subparagraph (1) (g) 4., the tax credit must equal 5  
1307 percent of the eligible capital costs generated by a qualifying  
1308 project for a period of up to 5 years, beginning on the start  
1309 date of the project. Unless assigned as described in this  
1310 subsection, the tax credit shall be granted against only the  
1311 corporate income tax liability or the premium tax liability  
1312 generated by or arising out of the qualifying project, and the  
1313 sum of all tax credits provided pursuant to this section shall  
1314 not exceed 100 percent of the eligible capital costs of the  
1315 project. In no event may any credit granted under this section



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1316 be carried forward or backward by any qualifying business with  
1317 respect to a subsequent or prior year. The annual tax credit  
1318 granted under this section shall not exceed the following  
1319 percentages of the annual corporate income tax liability or the  
1320 premium tax liability generated by or arising out of a  
1321 qualifying project:

1322       1. One hundred percent for a qualifying project which  
1323 results in a cumulative capital investment of at least \$100  
1324 million.

1325       2. One hundred percent for a qualifying project established  
1326 pursuant to subparagraph (1)(g)4. for which the cumulative  
1327 capital investment of one or more projects is an aggregate of at  
1328 least \$50 million per year for 3 years. The investment on an  
1329 individual project must be at least \$3.75 million.

1330       ~~3.2.~~ Seventy-five percent for a qualifying project which  
1331 results in a cumulative capital investment of at least \$50  
1332 million but less than \$100 million.

1333       ~~4.3.~~ Fifty percent for a qualifying project which results  
1334 in a cumulative capital investment of at least \$25 million but  
1335 less than \$50 million.

1336       (c) A qualifying business that establishes a qualifying  
1337 project that includes locating a new solar panel manufacturing  
1338 facility in this state that generates a minimum of 400 jobs  
1339 within 6 months after commencement of operations with an average  
1340 salary of at least \$50,000 may assign or transfer the annual  
1341 credit, or any portion thereof, granted under this section to  
1342 any other business. However, the amount of the tax credit that  
1343 may be transferred in any year shall be the lesser of the  
1344 qualifying business's state corporate income tax liability for





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1345 that year, as limited by the percentages applicable under  
1346 paragraph (a) and as calculated prior to taking any credit  
1347 pursuant to this section, or the credit amount granted for that  
1348 year. A business receiving the transferred or assigned credits  
1349 may use the credits only in the year received, and the credits  
1350 may not be carried forward or backward. To perfect the transfer,  
1351 the transferor shall provide the department with a written  
1352 transfer statement notifying the department of the transferor's  
1353 intent to transfer the tax credits to the transferee; the date  
1354 the transfer is effective; the transferee's name, address, and  
1355 federal taxpayer identification number; the tax period; and the  
1356 amount of tax credits to be transferred. The department shall,  
1357 upon receipt of a transfer statement conforming to the  
1358 requirements of this paragraph, provide the transferee with a  
1359 certificate reflecting the tax credit amounts transferred. A  
1360 copy of the certificate must be attached to each tax return for  
1361 which the transferee seeks to apply such tax credits.

1362 (e) For a qualifying project that meets the criteria of  
1363 subparagraph (1)(g)4.:

1364 1. If the credit granted under subparagraph (a)2. is not  
1365 fully used in any 1 year because of insufficient tax liability  
1366 on the part of the qualifying business, the unused amounts may  
1367 be used in any year or years beginning with the 6th year after  
1368 the completion date of the project and ending the 15th year  
1369 after the completion date of the project.

1370 2. The qualifying business may elect to transfer, in whole  
1371 or in part, any unused credit amount granted under this section.  
1372 The amount of the tax credit that may be transferred in any year  
1373 may not be greater than the difference between the state



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1374 corporate income tax liability of the qualifying business for  
1375 the year of the transfer, as limited by the percentages  
1376 applicable under paragraph (a) and as calculated before taking  
1377 any credit pursuant to this section, and the credit amount  
1378 granted for the year of the transfer. A business receiving the  
1379 transferred or assigned credits may use the credits only in the  
1380 year received, and the credits may not be carried forward or  
1381 backward. A transfer must be perfected in the same manner as  
1382 provided in paragraph (c).

1383 (4) Prior to receiving tax credits pursuant to this  
1384 section, a qualifying business must achieve and maintain the  
1385 minimum employment goals beginning with the commencement of  
1386 operations or the completion date of ~~at~~ a qualifying project and  
1387 continuing each year thereafter during which tax credits are  
1388 available pursuant to this section.

1389 (5) Applications shall be reviewed and certified pursuant  
1390 to s. 288.061. The Department of Economic Opportunity, upon a  
1391 recommendation by Enterprise Florida, Inc., shall first certify  
1392 a business as eligible to receive tax credits pursuant to this  
1393 section prior to the commencement of operations or the  
1394 completion date of a qualifying project, and such certification  
1395 shall be transmitted to the Department of Revenue. Upon receipt  
1396 of the certification, the Department of Revenue shall enter into  
1397 a written agreement with the qualifying business specifying, at  
1398 a minimum, the method by which income generated by or arising  
1399 out of the qualifying project will be determined.

1400 Section 13. Section 220.197, Florida Statutes, is created  
1401 to read:

1402 220.197 Telehealth tax credit.-



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1403       (1) For taxable years beginning on or after January 1,  
1404 2020, and before January 1, 2023, a credit against the tax  
1405 imposed by this chapter equal to the credit amount provided in  
1406 s. 624.509(9)(a) is allowed for taxpayers eligible to receive  
1407 the tax credit provided in s. 624.509(9)(a), but with  
1408 insufficient tax liability under s. 624.509 to use such tax  
1409 credit.

1410       (2) If the credit allowed under this section is not fully  
1411 used in any single year because of insufficient tax liability on  
1412 the part of the taxpayer, the unused amount may be carried  
1413 forward for a period not to exceed 5 years.

1414       (3)(a) In addition to its existing audit and investigation  
1415 authority, the department may perform any additional financial  
1416 and technical audits and investigations, including examining the  
1417 accounts, books, and records of the taxpayer, to verify  
1418 eligibility for the allowable credit and to ensure compliance  
1419 with this section. The Office of Insurance Regulation shall  
1420 provide technical assistance when requested by the department on  
1421 any audits or examinations performed pursuant to this paragraph.

1422       (b) If the department determines, as a result of an audit  
1423 or examination or from information received from the Office of  
1424 Insurance Regulation, that a taxpayer received a tax credit  
1425 under this section to which the taxpayer was not entitled, the  
1426 department shall pursue recovery of such funds pursuant to the  
1427 laws and rules governing the assessment of taxes.

1428       (4) A taxpayer may transfer a credit for which the taxpayer  
1429 qualifies under subsection (1), in whole or in part, to any  
1430 taxpayer by written agreement. To perfect the transfer, the  
1431 transferor shall provide the department with a written transfer



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1432 statement notifying the department of the transferor's intent to  
1433 transfer the tax credit to the transferee; the date that the  
1434 transfer is effective; the transferee's name, address, and  
1435 federal taxpayer identification number; the tax period; and the  
1436 amount of tax credit to be transferred. The department shall,  
1437 upon receipt of the transfer statement, provide the transferee  
1438 and the Office of Insurance Regulation with a certificate  
1439 reflecting the tax credit amount transferred. A copy of the  
1440 certificate must be attached to each tax return for which the  
1441 transferee seeks to apply such tax credit.

1442 (5) The department and the Financial Services Commission  
1443 may adopt rules to provide the administrative guidelines and  
1444 procedures required to administer this section and prescribe:

1445 (a) Any forms necessary to claim a tax credit under this  
1446 section, the requirements and basis for establishing an  
1447 entitlement to a credit, and the examination and audit  
1448 procedures required to administer this section.

1449 (b) The implementation and administration of the provisions  
1450 to allow a transfer of a tax credit, including reporting  
1451 requirements, and procedures, guidelines, and requirements  
1452 necessary to transfer such credit.

1453 Section 14. Present subsection (9) of section 624.509,  
1454 Florida Statutes, is redesignated as subsection (10) and  
1455 amended, and a new subsection (9) is added to that section, to  
1456 read:

1457 624.509 Premium tax; rate and computation.—

1458 (9) (a) For tax years beginning on or after January 1, 2020,  
1459 and before January 1, 2023, any health insurer or health  
1460 maintenance organization that covers services provided by



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1461 telehealth shall be allowed a credit against the tax imposed by  
1462 this section equal to 0.1 percent of total insurance premiums  
1463 received on accident and health insurance policies or plans  
1464 delivered or issued in this state in the previous calendar year  
1465 that provide medical, major medical, or similar comprehensive  
1466 coverage. The office shall confirm such coverage to the  
1467 Department of Revenue following its annual rate and form review  
1468 for each health insurance policy or plan.

1469 (b) If the credit allowed under this subsection is not  
1470 fully used in any single year because of insufficient tax  
1471 liability on the part of a health insurer or health maintenance  
1472 organization and the same health insurer or health maintenance  
1473 organization does not use the credit available pursuant to s.  
1474 220.197, the unused amount may be carried forward for a period  
1475 not to exceed 5 years.

1476 (c)1. In addition to its existing audit and investigation  
1477 authority, the Department of Revenue may perform any additional  
1478 financial and technical audits and investigations, including  
1479 examining the accounts, books, and records of the health insurer  
1480 or health maintenance organization, which are necessary to  
1481 verify eligibility for the credit allowed under this subsection  
1482 and to ensure compliance with this subsection. The office shall  
1483 provide technical assistance when requested by the Department of  
1484 Revenue on any audits or examinations performed pursuant to this  
1485 subparagraph.

1486 2. If the Department of Revenue determines, as a result of  
1487 an audit or examination or from information received from the  
1488 office, that a taxpayer received a tax credit under this  
1489 subsection to which the taxpayer was not entitled, the



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1490 Department of Revenue shall pursue recovery of such funds  
1491 pursuant to the laws and rules governing the assessment of  
1492 taxes.

1493 (d) A health insurer or health maintenance organization may  
1494 transfer a credit for which it qualifies under paragraph (a), in  
1495 whole or in part, to any insurer by written agreement. To  
1496 perfect the transfer, the transferor shall provide the  
1497 Department of Revenue with a written transfer statement  
1498 notifying the department of the transferor's intent to transfer  
1499 the tax credit to the transferee; the date that the transfer is  
1500 effective; the transferee's name, address, and federal taxpayer  
1501 identification number; the tax period; and the amount of tax  
1502 credit to be transferred. The Department of Revenue shall, upon  
1503 receipt of the transfer statement, provide the transferee and  
1504 the office with a certificate reflecting the tax credit amount  
1505 transferred. A copy of the certificate must be attached to each  
1506 tax return for which the transferee seeks to apply such tax  
1507 credit.

1508 (e) The Department of Revenue and the commission may adopt  
1509 rules to provide the administrative guidelines and procedures  
1510 required to administer this section and prescribe:

1511 1. Any forms necessary to claim a tax credit under this  
1512 section, the requirements and basis for establishing an  
1513 entitlement to a credit, and the examination and audit  
1514 procedures required to administer this section.

1515 2. The implementation and administration of the provisions  
1516 to allow a transfer of a tax credit, including reporting  
1517 requirements, and specific procedures, guidelines, and  
1518 requirements necessary to transfer such credit.



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1519           (f) An insurer that claims a credit against tax liability  
1520 under this subsection is not required to pay any additional  
1521 retaliatory tax levied under s. 624.5091 as a result of claiming  
1522 such a credit. Section 624.5091 does not limit such a credit in  
1523 any manner.

1524           (10) ~~(9)~~ As used in this section, the term:

1525           (a) "Health insurer" means an authorized insurer offering  
1526 health insurance as defined in s. 624.603.

1527           (b) "Health maintenance organization" has the same meaning  
1528 as provided in s. 641.19.

1529           (c) "Insurer" includes any entity subject to the tax  
1530 imposed by this section.

1531           (d) "Telehealth" means the use of synchronous or  
1532 asynchronous telecommunications technology by a health care  
1533 provider to provide health care services, including, but not  
1534 limited to, patient assessment, diagnosis, consultation,  
1535 treatment, and monitoring; transfer of medical data; patient and  
1536 professional health-related education; public health services;  
1537 and health administration. The term does not include audio-only  
1538 telephone calls, e-mail messages, or facsimile transmissions.

1539           Section 15. For the purpose of incorporating the amendment  
1540 made by this act to section 212.0596, Florida Statutes, in a  
1541 reference thereto, subsection (4) of section 212.20, Florida  
1542 Statutes, is reenacted to read:

1543           212.20 Funds collected, disposition; additional powers of  
1544 department; operational expense; refund of taxes adjudicated  
1545 unconstitutionally collected.—

1546           (4) When there has been a final adjudication that any tax  
1547 pursuant to s. 212.0596 was levied, collected, or both, contrary



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1548 to the Constitution of the United States or the State  
1549 Constitution, the department shall, in accordance with rules,  
1550 determine, based upon claims for refund and other evidence and  
1551 information, who paid such tax or taxes, and refund to each such  
1552 person the amount of tax paid. For purposes of this subsection,  
1553 a "final adjudication" is a decision of a court of competent  
1554 jurisdiction from which no appeal can be taken or from which the  
1555 official or officials of this state with authority to make such  
1556 decisions has or have decided not to appeal.

1557 Section 16. (1) The Department of Revenue is authorized,  
1558 and all conditions are deemed met, to adopt emergency rules  
1559 pursuant to s. 120.54(4), Florida Statutes, for the purpose of  
1560 administering this act.

1561 (2) Notwithstanding any other law, emergency rules adopted  
1562 pursuant to subsection (1) are effective for 6 months after  
1563 adoption and may be renewed during the pendency of procedures to  
1564 adopt permanent rules addressing the subject of the emergency  
1565 rules.

1566 (3) This section expires July 1, 2020.

1567 Section 17. If any provision of this act or its application  
1568 to any person or circumstance is held invalid, the invalidity  
1569 does not affect other provisions or applications of the act  
1570 which can be given effect without the invalid provision or  
1571 application, and to this end the provisions of this act are  
1572 severable.

1573 Section 18. Except as otherwise expressly provided in this  
1574 act, this act shall take effect upon becoming a law.

1575  
1576 ===== T I T L E A M E N D M E N T =====





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1577 And the title is amended as follows:

1578 Delete everything before the enacting clause  
1579 and insert:

1580 A bill to be entitled

1581 An act relating to taxation; amending s. 192.001,  
1582 F.S.; revising the definition of the term "inventory,"  
1583 for purposes of ad valorem taxation except for school  
1584 district levies, to include certain construction  
1585 equipment owned by a heavy equipment rental dealer;  
1586 defining the terms "heavy equipment rental dealer" and  
1587 "short-term rental"; providing construction; amending  
1588 s. 196.1978, F.S.; increasing the discount under the  
1589 affordable housing property exemption; amending s.  
1590 212.02, F.S.; revising the definition of the term  
1591 "retail sale" for purposes of the sales and use tax;  
1592 amending s. 212.031, F.S.; reducing the rate of the  
1593 tax on rental or licensee fees for the use of real  
1594 property; amending s. 212.05, F.S.; conforming a  
1595 provision to changes made by the act; amending s.  
1596 212.0596, F.S.; renaming the term "mail order sale" as  
1597 "remote sale" and revising the definition; providing  
1598 that certain activities of a dealer that result in  
1599 making a substantial number of remote sales subject  
1600 the dealer to the sales and use tax; deleting a  
1601 condition that certain connection with or relationship  
1602 to this state or its residents subjects a dealer to  
1603 the tax; deleting a prohibition against imposing a fee  
1604 on certain dealers; defining the term "making a  
1605 substantial number of remote sales"; deleting an



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1606 exemption for certain dealers from collecting local  
1607 option surtaxes under certain circumstances; creating  
1608 s. 212.05965, F.S.; defining terms; providing that  
1609 certain marketplace providers are subject to dealer  
1610 registration requirements and requirements for  
1611 collecting and remitting sales taxes; requiring  
1612 marketplace providers to provide a certain  
1613 certification to their marketplace sellers;  
1614 prohibiting marketplace sellers from collecting and  
1615 remitting sales taxes, and requiring such sellers to  
1616 exclude certain sales from their sales tax returns,  
1617 under certain circumstances; requiring certain  
1618 marketplace sellers to register and to collect and  
1619 remit sales taxes on all taxable retail sales made  
1620 outside of the marketplace; requiring marketplace  
1621 providers to allow the Department of Revenue to  
1622 examine and audit their books and records; specifying  
1623 the department's authority in examinations, audits,  
1624 and assessments of marketplace sellers; providing that  
1625 the marketplace seller or customer, and not the  
1626 marketplace provider, is liable for sales taxes under  
1627 certain circumstances; authorizing marketplace  
1628 providers and marketplace sellers to enter into  
1629 certain agreements for the recovery of tax, interest,  
1630 and penalties; authorizing the department to  
1631 compromise any tax, interest, or penalty on certain  
1632 sales; providing applicability and construction;  
1633 amending s. 212.06, F.S.; revising the definition of  
1634 the term "dealer"; conforming provisions to changes



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1635 made by the act; creating s. 212.094, F.S.; defining  
1636 terms; providing a sales tax refund to an eligible job  
1637 training organization on its sales of goods donated to  
1638 the organization; specifying requirements on the use  
1639 of refunds; specifying limitations and requirements on  
1640 refunds issued and granted; specifying requirements  
1641 and procedures for applying for certification with the  
1642 Department of Economic Opportunity; specifying  
1643 requirements and procedures for certified eligible job  
1644 training organizations in applying for refunds with  
1645 the Department of Revenue; providing construction;  
1646 requiring certain organizations to provide a specified  
1647 report to the Department of Economic Opportunity by a  
1648 certain date; authorizing the Department of Economic  
1649 Opportunity to adopt rules; providing requirements if  
1650 the Department of Economic Opportunity determines an  
1651 organization no longer qualifies for the refund;  
1652 providing for repayment and interest of certain issued  
1653 refunds; amending s. 212.12, F.S.; deleting the  
1654 authority of the Department of Revenue's executive  
1655 director to negotiate a certain collection allowance;  
1656 conforming provisions to changes made by the act;  
1657 amending s. 212.18, F.S.; conforming a provision to  
1658 changes made by the act; amending s. 220.191, F.S.;  
1659 revising definitions; defining the term "intellectual  
1660 property"; revising the capital investment tax credit  
1661 to include certain qualifying projects for the  
1662 creation of intellectual property; specifying the  
1663 amount and maximum period of the tax credit for such



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1664 projects; specifying the limit of the credit as to  
1665 certain tax liabilities; specifying minimum required  
1666 capital investments in such projects; specifying  
1667 procedures and requirements for carrying forward and  
1668 transferring the tax credit for such projects;  
1669 creating s. 220.197, F.S.; providing a corporate  
1670 income tax credit, during a certain timeframe, for  
1671 certain health insurers and health maintenance  
1672 organizations that cover services provided by  
1673 telehealth; specifying a condition for eligibility;  
1674 authorizing the credit to be carried forward for a  
1675 certain period; authorizing the department to conduct  
1676 certain audits and investigations; requiring the  
1677 Office of Insurance Regulation to provide technical  
1678 assistance to the department; requiring the department  
1679 to pursue recovery of funds from taxpayers claiming  
1680 the credit under certain circumstances; specifying  
1681 requirements and procedures for transferring the  
1682 credit to another taxpayer; authorizing the department  
1683 and the Financial Services Commission to adopt certain  
1684 rules; amending s. 624.509, F.S.; providing an  
1685 insurance premium tax credit, during a certain  
1686 timeframe, for certain health insurers and health  
1687 maintenance organizations that cover services provided  
1688 by telehealth; requiring the Office of Insurance  
1689 Regulation to confirm certain coverage with the  
1690 department at certain timeframes; authorizing the  
1691 credit to be carried forward for a certain period;  
1692 authorizing the department to conduct certain audits



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1693 and investigations; requiring the Office of Insurance  
1694 Regulation to provide technical assistance to the  
1695 department; requiring the department to pursue  
1696 recovery of funds from taxpayers claiming the credit  
1697 under certain circumstances; specifying requirements  
1698 and procedures for transferring the credit to another  
1699 taxpayer; authorizing the department and the Financial  
1700 Services Commission to adopt certain rules; providing  
1701 that an insurer is not required to pay additional  
1702 retaliatory tax as a result of claiming such credit;  
1703 providing construction; defining terms; reenacting s.  
1704 212.20(4), F.S., relating to refunds of taxes  
1705 adjudicated unconstitutionally collected, to  
1706 incorporate the amendment made to s. 212.0596, F.S.,  
1707 in a reference thereto; authorizing the department to  
1708 adopt emergency rules; providing for expiration of the  
1709 authorization; providing for severability; providing  
1710 effective dates.

By Senator Gruters

23-00759B-19

20191112\_\_

1 A bill to be entitled  
 2 An act relating to taxation; amending s. 192.001,  
 3 F.S.; revising the definition of the term "inventory,"  
 4 for purposes of ad valorem taxation, to include  
 5 certain rented construction, earthmoving, or  
 6 industrial equipment; defining the terms "dealer of  
 7 heavy equipment rental property" and "short-term  
 8 rental"; amending s. 212.02, F.S.; revising the  
 9 definition of the term "retail sale"; amending s.  
 10 212.031, F.S.; reducing the rate of the tax on rental  
 11 or licensee fees for the use of real property;  
 12 amending s. 212.05, F.S.; conforming a provision to  
 13 changes made by the act; amending s. 212.0596, F.S.;  
 14 replacing the term "mail order sales" with the term  
 15 "remote sales"; defining the terms "remote sales" and  
 16 "making a substantial number of remote sales";  
 17 revising applicability and construction; deleting an  
 18 exemption for certain dealers from collecting and  
 19 remitting local option surtaxes; deleting a provision  
 20 authorizing the department to establish certain  
 21 procedures by rule; creating s. 212.05965, F.S.;  
 22 defining terms; providing that certain marketplace  
 23 providers are subject to dealer requirements for the  
 24 registration, collection, and remittance of sales  
 25 taxes; requiring such marketplace providers to certify  
 26 to their marketplace sellers that they will collect  
 27 and remit sales taxes on certain sales; providing that  
 28 the certification may be included in an agreement  
 29 between the marketplace provider and the marketplace

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30 seller; prohibiting marketplace sellers from  
 31 collecting and remitting sales taxes under certain  
 32 circumstances; requiring such marketplace sellers to  
 33 exclude certain sales from their tax returns;  
 34 requiring certain marketplace sellers to register,  
 35 collect, and remit sales taxes on all taxable retail  
 36 sales made outside of the marketplace; requiring  
 37 certain marketplace sellers to remit sales taxes on  
 38 all taxable sales made outside of the marketplace;  
 39 requiring marketplace providers to allow the  
 40 department to examine books and records; prohibiting  
 41 the department from proposing certain tax assessments  
 42 under certain circumstances; providing that a  
 43 marketplace seller, and not the marketplace provider,  
 44 is liable for sales taxes under certain circumstances;  
 45 authorizing a marketplace provider to recover paid  
 46 taxes, interest, and penalties from the marketplace  
 47 seller under certain circumstances; authorizing the  
 48 department to compromise certain taxes, interest, or  
 49 penalties; providing applicability and construction;  
 50 amending s. 212.06, F.S.; revising the definition of  
 51 the term "dealer"; conforming provisions to changes  
 52 made by the act; providing sales tax exemptions on the  
 53 sale of specified disaster preparedness supplies  
 54 during a specified timeframe; providing applicability  
 55 for certain exemptions; authorizing the department to  
 56 adopt emergency rules; specifying locations where the  
 57 exemptions do not apply; providing an appropriation;  
 58 amending ss. 212.12 and 212.18, F.S.; conforming

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59 provisions to changes made by the act; reenacting s.  
60 212.20(4), F.S., relating to refunds of taxes  
61 adjudicated unconstitutionally collected, to  
62 incorporate the amendment made to s. 212.0596, F.S.,  
63 in a reference thereto; authorizing the department to  
64 adopt emergency rules; providing for expiration of the  
65 authorization; providing for severability; providing  
66 effective dates.

67  
68 Be It Enacted by the Legislature of the State of Florida:

69  
70 Section 1. Paragraph (c) of subsection (11) of section  
71 192.001, Florida Statutes, is amended to read:  
72 192.001 Definitions.—All definitions set out in chapters 1  
73 and 200 that are applicable to this chapter are included herein.  
74 In addition, the following definitions shall apply in the  
75 imposition of ad valorem taxes:  
76 (11) "Personal property," for the purposes of ad valorem  
77 taxation, shall be divided into four categories as follows:  
78 (c)1. "Inventory" means only those chattels consisting of  
79 items commonly referred to as goods, wares, and merchandise (as  
80 well as inventory) which are held for sale or lease to customers  
81 in the ordinary course of business. Supplies and raw materials  
82 shall be considered to be inventory only to the extent that they  
83 are acquired for sale or lease to customers in the ordinary  
84 course of business or will physically become a part of  
85 merchandise intended for sale or lease to customers in the  
86 ordinary course of business. Partially finished products which  
87 when completed will be held for sale or lease to customers in

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88 the ordinary course of business shall be deemed items of  
89 inventory. All livestock shall be considered inventory. Items of  
90 inventory held for lease to customers in the ordinary course of  
91 business, rather than for sale, shall be deemed inventory only  
92 prior to the initial lease of such items. For the purposes of  
93 this section, fuels used in the production of electricity shall  
94 be considered inventory.

95 2. "Inventory" also means construction and agricultural  
96 equipment weighing 1,000 pounds or more that is returned to a  
97 dealership under a rent-to-purchase option and held for sale to  
98 customers in the ordinary course of business. This subparagraph  
99 may not be considered in determining whether property that is  
100 not construction and agricultural equipment weighing 1,000  
101 pounds or more that is returned under a rent-to-purchase option  
102 is inventory under subparagraph 1.

103 3. "Inventory" also means any construction equipment,  
104 earthmoving equipment, or industrial equipment that is mobile  
105 and rented by a dealer of heavy equipment rental property,  
106 including attachments for the equipment or other ancillary  
107 equipment or tools. Qualified heavy equipment property is mobile  
108 if it is not permanently affixed to real property and is moved  
109 among worksites. For the purposes of this chapter and chapter  
110 196, the term "dealer of heavy equipment rental property" means  
111 a person or entity principally engaged in the business of short-  
112 term rental of property as described under North American  
113 Industrial Classification System code 532412, as published by  
114 the Office of Management and Budget, Executive Office of the  
115 President. As used in this subparagraph, the term "short-term  
116 rental" means the rental of a dealer's heavy equipment rental

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117 property for a period of less than 1 year, for an undefined  
 118 period, or under a contract with unlimited terms.

119 Section 2. Paragraph (e) of subsection (14) of section  
 120 212.02, Florida Statutes, is amended, and paragraph (f) is added  
 121 to that subsection, to read:

122 212.02 Definitions.—The following terms and phrases when  
 123 used in this chapter have the meanings ascribed to them in this  
 124 section, except where the context clearly indicates a different  
 125 meaning:

126 (14)

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

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

131 Section 3. Paragraphs (c) and (d) of subsection (1) of  
 132 section 212.031, Florida Statutes, are amended to read:

133 212.031 Tax on rental or license fee for use of real  
 134 property.—

135 (1)

136 (c) For the exercise of such privilege, a tax is levied at  
 137 the rate of 4.2 ~~5.7~~ percent of and on the total rent or license  
 138 fee charged for such real property by the person charging or  
 139 collecting the rental or license fee. The total rent or license  
 140 fee charged for such real property shall include payments for  
 141 the granting of a privilege to use or occupy real property for  
 142 any purpose and shall include base rent, percentage rents, or  
 143 similar charges. Such charges shall be included in the total  
 144 rent or license fee subject to tax under this section whether or  
 145 not they can be attributed to the ability of the lessor's or

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146 licensor's property as used or operated to attract customers.  
 147 Payments for intrinsically valuable personal property such as  
 148 franchises, trademarks, service marks, logos, or patents are not  
 149 subject to tax under this section. In the case of a contractual  
 150 arrangement that provides for both payments taxable as total  
 151 rent or license fee and payments not subject to tax, the tax  
 152 shall be based on a reasonable allocation of such payments and  
 153 shall not apply to that portion which is for the nontaxable  
 154 payments.

155 (d) When the rental or license fee of any such real  
 156 property is paid by way of property, goods, wares, merchandise,  
 157 services, or other thing of value, the tax shall be at the rate  
 158 of 4.2 ~~5.7~~ percent of the value of the property, goods, wares,  
 159 merchandise, services, or other thing of value.

160 Section 4. Section 212.05, Florida Statutes, is amended to  
 161 read:

162 212.05 Sales, storage, use tax.—It is hereby declared to be  
 163 the legislative intent that every person is exercising a taxable  
 164 privilege who engages in the business of selling tangible  
 165 personal property at retail in this state, including the  
 166 business of making remote mail order sales, ~~;~~ ~~or~~ who rents or  
 167 furnishes any of the things or services taxable under this  
 168 chapter, ~~;~~ ~~or~~ who stores for use or consumption in this state any  
 169 item or article of tangible personal property as defined herein  
 170 and who leases or rents such property within the state.

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

174 (a)1.a. At the rate of 6 percent of the sales price of each

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175 item or article of tangible personal property when sold at  
 176 retail in this state, computed on each taxable sale for the  
 177 purpose of remitting the amount of tax due the state, and  
 178 including each and every retail sale.

179 b. Each occasional or isolated sale of an aircraft, boat,  
 180 mobile home, or motor vehicle of a class or type which is  
 181 required to be registered, licensed, titled, or documented in  
 182 this state or by the United States Government shall be subject  
 183 to tax at the rate provided in this paragraph. The department  
 184 shall by rule adopt any nationally recognized publication for  
 185 valuation of used motor vehicles as the reference price list for  
 186 any used motor vehicle which is required to be licensed pursuant  
 187 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any  
 188 party to an occasional or isolated sale of such a vehicle  
 189 reports to the tax collector a sales price which is less than 80  
 190 percent of the average loan price for the specified model and  
 191 year of such vehicle as listed in the most recent reference  
 192 price list, the tax levied under this paragraph shall be  
 193 computed by the department on such average loan price unless the  
 194 parties to the sale have provided to the tax collector an  
 195 affidavit signed by each party, or other substantial proof,  
 196 stating the actual sales price. Any party to such sale who  
 197 reports a sales price less than the actual sales price is guilty  
 198 of a misdemeanor of the first degree, punishable as provided in  
 199 s. 775.082 or s. 775.083. The department shall collect or  
 200 attempt to collect from such party any delinquent sales taxes.  
 201 In addition, such party shall pay any tax due and any penalty  
 202 and interest assessed plus a penalty equal to twice the amount  
 203 of the additional tax owed. Notwithstanding any other provision

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204 of law, the Department of Revenue may waive or compromise any  
 205 penalty imposed pursuant to this subparagraph.

206 2. This paragraph does not apply to the sale of a boat or  
 207 aircraft by or through a registered dealer under this chapter to  
 208 a purchaser who, at the time of taking delivery, is a  
 209 nonresident of this state, does not make his or her permanent  
 210 place of abode in this state, and is not engaged in carrying on  
 211 in this state any employment, trade, business, or profession in  
 212 which the boat or aircraft will be used in this state, or is a  
 213 corporation none of the officers or directors of which is a  
 214 resident of, or makes his or her permanent place of abode in,  
 215 this state, or is a noncorporate entity that has no individual  
 216 vested with authority to participate in the management,  
 217 direction, or control of the entity's affairs who is a resident  
 218 of, or makes his or her permanent abode in, this state. For  
 219 purposes of this exemption, either a registered dealer acting on  
 220 his or her own behalf as seller, a registered dealer acting as  
 221 broker on behalf of a seller, or a registered dealer acting as  
 222 broker on behalf of the purchaser may be deemed to be the  
 223 selling dealer. This exemption shall not be allowed unless:

224 a. The purchaser removes a qualifying boat, as described in  
 225 sub-subparagraph f., from the state within 90 days after the  
 226 date of purchase or extension, or the purchaser removes a  
 227 nonqualifying boat or an aircraft from this state within 10 days  
 228 after the date of purchase or, when the boat or aircraft is  
 229 repaired or altered, within 20 days after completion of the  
 230 repairs or alterations; or if the aircraft will be registered in  
 231 a foreign jurisdiction and:

232 (I) Application for the aircraft's registration is properly

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233 filed with a civil airworthiness authority of a foreign  
 234 jurisdiction within 10 days after the date of purchase;

235 (II) The purchaser removes the aircraft from the state to a  
 236 foreign jurisdiction within 10 days after the date the aircraft  
 237 is registered by the applicable foreign airworthiness authority;  
 238 and

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

241

242 For purposes of this sub-subparagraph, the term "foreign  
 243 jurisdiction" means any jurisdiction outside of the United  
 244 States or any of its territories;

245 b. The purchaser, within 30 days from the date of  
 246 departure, provides the department with written proof that the  
 247 purchaser licensed, registered, titled, or documented the boat  
 248 or aircraft outside the state. If such written proof is  
 249 unavailable, within 30 days the purchaser shall provide proof  
 250 that the purchaser applied for such license, title,  
 251 registration, or documentation. The purchaser shall forward to  
 252 the department proof of title, license, registration, or  
 253 documentation upon receipt;

254 c. The purchaser, within 10 days of removing the boat or  
 255 aircraft from Florida, furnishes the department with proof of  
 256 removal in the form of receipts for fuel, dockage, slippage,  
 257 tie-down, or hangaring from outside of Florida. The information  
 258 so provided must clearly and specifically identify the boat or  
 259 aircraft;

260 d. The selling dealer, within 5 days of the date of sale,  
 261 provides to the department a copy of the sales invoice, closing

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262 statement, bills of sale, and the original affidavit signed by  
 263 the purchaser attesting that he or she has read the provisions  
 264 of this section;

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

267 f. Unless the nonresident purchaser of a boat of 5 net tons  
 268 of admeasurement or larger intends to remove the boat from this  
 269 state within 10 days after the date of purchase or when the boat  
 270 is repaired or altered, within 20 days after completion of the  
 271 repairs or alterations, the nonresident purchaser applies to the  
 272 selling dealer for a decal which authorizes 90 days after the  
 273 date of purchase for removal of the boat. The nonresident  
 274 purchaser of a qualifying boat may apply to the selling dealer  
 275 within 60 days after the date of purchase for an extension decal  
 276 that authorizes the boat to remain in this state for an  
 277 additional 90 days, but not more than a total of 180 days,  
 278 before the nonresident purchaser is required to pay the tax  
 279 imposed by this chapter. The department is authorized to issue  
 280 decals in advance to dealers. The number of decals issued in  
 281 advance to a dealer shall be consistent with the volume of the  
 282 dealer's past sales of boats which qualify under this sub-  
 283 subparagraph. The selling dealer or his or her agent shall mark  
 284 and affix the decals to qualifying boats in the manner  
 285 prescribed by the department, before delivery of the boat.

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

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

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

294 (IV) The department is authorized to require dealers who  
 295 purchase decals to file reports with the department and may  
 296 prescribe all necessary records by rule. All such records are  
 297 subject to inspection by the department.

298 (V) Any dealer or his or her agent who issues a decal  
 299 falsely, fails to affix a decal, mismarks the expiration date of  
 300 a decal, or fails to properly account for decals will be  
 301 considered prima facie to have committed a fraudulent act to  
 302 evade the tax and will be liable for payment of the tax plus a  
 303 mandatory penalty of 200 percent of the tax, and shall be liable  
 304 for fine and punishment as provided by law for a conviction of a  
 305 misdemeanor of the first degree, as provided in s. 775.082 or s.  
 306 775.083.

307 (VI) Any nonresident purchaser of a boat who removes a  
 308 decal before permanently removing the boat from the state, or  
 309 defaces, changes, modifies, or alters a decal in a manner  
 310 affecting its expiration date before its expiration, or who  
 311 causes or allows the same to be done by another, will be  
 312 considered prima facie to have committed a fraudulent act to  
 313 evade the tax and will be liable for payment of the tax plus a  
 314 mandatory penalty of 200 percent of the tax, and shall be liable  
 315 for fine and punishment as provided by law for a conviction of a  
 316 misdemeanor of the first degree, as provided in s. 775.082 or s.  
 317 775.083.

318 (VII) The department is authorized to adopt rules necessary  
 319 to administer and enforce this subparagraph and to publish the

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320 necessary forms and instructions.

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

324  
 325 If the purchaser fails to remove the qualifying boat from this  
 326 state within the maximum 180 days after purchase or a  
 327 nonqualifying boat or an aircraft from this state within 10 days  
 328 after purchase or, when the boat or aircraft is repaired or  
 329 altered, within 20 days after completion of such repairs or  
 330 alterations, or permits the boat or aircraft to return to this  
 331 state within 6 months from the date of departure, except as  
 332 provided in s. 212.08(7)(fff), or if the purchaser fails to  
 333 furnish the department with any of the documentation required by  
 334 this subparagraph within the prescribed time period, the  
 335 purchaser shall be liable for use tax on the cost price of the  
 336 boat or aircraft and, in addition thereto, payment of a penalty  
 337 to the Department of Revenue equal to the tax payable. This  
 338 penalty shall be in lieu of the penalty imposed by s. 212.12(2).  
 339 The maximum 180-day period following the sale of a qualifying  
 340 boat tax-exempt to a nonresident may not be tolled for any  
 341 reason.

342 (b) At the rate of 6 percent of the cost price of each item  
 343 or article of tangible personal property when the same is not  
 344 sold but is used, consumed, distributed, or stored for use or  
 345 consumption in this state; however, for tangible property  
 346 originally purchased exempt from tax for use exclusively for  
 347 lease and which is converted to the owner's own use, tax may be  
 348 paid on the fair market value of the property at the time of

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349 conversion. If the fair market value of the property cannot be  
 350 determined, use tax at the time of conversion shall be based on  
 351 the owner's acquisition cost. Under no circumstances may the  
 352 aggregate amount of sales tax from leasing the property and use  
 353 tax due at the time of conversion be less than the total sales  
 354 tax that would have been due on the original acquisition cost  
 355 paid by the owner.

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

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

362 a. If the motor vehicle is rented in Florida, the entire  
 363 amount of such rental is taxable, even if the vehicle is dropped  
 364 off in another state.

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

367 2. Except as provided in subparagraph 3., for the lease or  
 368 rental of a motor vehicle for a period of not less than 12  
 369 months, sales tax is due on the lease or rental payments if the  
 370 vehicle is registered in this state; provided, however, that no  
 371 tax shall be due if the taxpayer documents use of the motor  
 372 vehicle outside this state and tax is being paid on the lease or  
 373 rental payments in another state.

374 3. The tax imposed by this chapter does not apply to the  
 375 lease or rental of a commercial motor vehicle as defined in s.  
 376 316.003(13)(a) to one lessee or rentee for a period of not less  
 377 than 12 months when tax was paid on the purchase price of such

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378 vehicle by the lessor. To the extent tax was paid with respect  
 379 to the purchase of such vehicle in another state, territory of  
 380 the United States, or the District of Columbia, the Florida tax  
 381 payable shall be reduced in accordance with the provisions of s.  
 382 212.06(7). This subparagraph shall only be available when the  
 383 lease or rental of such property is an established business or  
 384 part of an established business or the same is incidental or  
 385 germane to such business.

386 (d) At the rate of 6 percent of the lease or rental price  
 387 paid by a lessee or rentee, or contracted or agreed to be paid  
 388 by a lessee or rentee, to the owner of the tangible personal  
 389 property.

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

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

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

396 (II) If the sale or recharge of the prepaid calling  
 397 arrangement does not take place at the dealer's place of  
 398 business, it shall be deemed to have taken place at the  
 399 customer's shipping address or, if no item is shipped, at the  
 400 customer's address or the location associated with the  
 401 customer's mobile telephone number.

402 (III) The sale or recharge of a prepaid calling arrangement  
 403 shall be treated as a sale of tangible personal property for  
 404 purposes of this chapter, regardless of whether a tangible item  
 405 evidencing such arrangement is furnished to the purchaser, and  
 406 such sale within this state subjects the selling dealer to the

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407 jurisdiction of this state for purposes of this subsection.  
 408 (IV) No additional tax under this chapter or chapter 202 is  
 409 due or payable if a purchaser of a prepaid calling arrangement  
 410 who has paid tax under this chapter on the sale or recharge of  
 411 such arrangement applies one or more units of the prepaid  
 412 calling arrangement to obtain communications services as  
 413 described in s. 202.11(9)(b)3., other services that are not  
 414 communications services, or products.  
 415 b. The installation of telecommunication and telegraphic  
 416 equipment.  
 417 c. Electrical power or energy, except that the tax rate for  
 418 charges for electrical power or energy is 4.35 percent. Charges  
 419 for electrical power and energy do not include taxes imposed  
 420 under ss. 166.231 and 203.01(1)(a)3.  
 421 2. Section 212.17(3), regarding credit for tax paid on  
 422 charges subsequently found to be worthless, is equally  
 423 applicable to any tax paid under this section on charges for  
 424 prepaid calling arrangements, telecommunication or telegraph  
 425 services, or electric power subsequently found to be  
 426 uncollectible. As used in this paragraph, the term "charges"  
 427 does not include any excise or similar tax levied by the Federal  
 428 Government, a political subdivision of this state, or a  
 429 municipality upon the purchase, sale, or recharge of prepaid  
 430 calling arrangements or upon the purchase or sale of  
 431 telecommunication, television system program, or telegraph  
 432 service or electric power, which tax is collected by the seller  
 433 from the purchaser.  
 434 (f) At the rate of 6 percent on the sale, rental, use,  
 435 consumption, or storage for use in this state of machines and

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436 equipment, and parts and accessories therefor, used in  
 437 manufacturing, processing, compounding, producing, mining, or  
 438 quarrying personal property for sale or to be used in furnishing  
 439 communications, transportation, or public utility services.  
 440 (g)1. At the rate of 6 percent on the retail price of  
 441 newspapers and magazines sold or used in Florida.  
 442 2. Notwithstanding other provisions of this chapter,  
 443 inserts of printed materials which are distributed with a  
 444 newspaper or magazine are a component part of the newspaper or  
 445 magazine, and neither the sale nor use of such inserts is  
 446 subject to tax when:  
 447 a. Printed by a newspaper or magazine publisher or  
 448 commercial printer and distributed as a component part of a  
 449 newspaper or magazine, which means that the items after being  
 450 printed are delivered directly to a newspaper or magazine  
 451 publisher by the printer for inclusion in editions of the  
 452 distributed newspaper or magazine;  
 453 b. Such publications are labeled as part of the designated  
 454 newspaper or magazine publication into which they are to be  
 455 inserted; and  
 456 c. The purchaser of the insert presents a resale  
 457 certificate to the vendor stating that the inserts are to be  
 458 distributed as a component part of a newspaper or magazine.  
 459 (h)1. A tax is imposed at the rate of 4 percent on the  
 460 charges for the use of coin-operated amusement machines. The tax  
 461 shall be calculated by dividing the gross receipts from such  
 462 charges for the applicable reporting period by a divisor,  
 463 determined as provided in this subparagraph, to compute gross  
 464 taxable sales, and then subtracting gross taxable sales from

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465 gross receipts to arrive at the amount of tax due. For counties  
 466 that do not impose a discretionary sales surtax, the divisor is  
 467 equal to 1.04; for counties that impose a 0.5 percent  
 468 discretionary sales surtax, the divisor is equal to 1.045; for  
 469 counties that impose a 1 percent discretionary sales surtax, the  
 470 divisor is equal to 1.050; and for counties that impose a 2  
 471 percent sales surtax, the divisor is equal to 1.060. If a county  
 472 imposes a discretionary sales surtax that is not listed in this  
 473 subparagraph, the department shall make the applicable divisor  
 474 available in an electronic format or otherwise. Additional  
 475 divisors shall bear the same mathematical relationship to the  
 476 next higher and next lower divisors as the new surtax rate bears  
 477 to the next higher and next lower surtax rates for which  
 478 divisors have been established. When a machine is activated by a  
 479 slug, token, coupon, or any similar device which has been  
 480 purchased, the tax is on the price paid by the user of the  
 481 device for such device.

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

486 a. If the owner of the machine is also the operator of it,  
 487 he or she shall be liable for payment of the tax without any  
 488 deduction for rent or a license fee paid to a location owner for  
 489 the use of any real property on which the machine is located.

490 b. If the owner or lessee of the machine is also its  
 491 operator, he or she shall be liable for payment of the tax on  
 492 the purchase or lease of the machine, as well as the tax on  
 493 sales generated through the machine.

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494 c. If the proprietor of the business where the machine is  
 495 located does not own the machine, he or she shall be deemed to  
 496 be the lessee and operator of the machine and is responsible for  
 497 the payment of the tax on sales, unless such responsibility is  
 498 otherwise provided for in a written agreement between him or her  
 499 and the machine owner.

500 3.a. An operator of a coin-operated amusement machine may  
 501 not operate or cause to be operated in this state any such  
 502 machine until the operator has registered with the department  
 503 and has conspicuously displayed an identifying certificate  
 504 issued by the department. The identifying certificate shall be  
 505 issued by the department upon application from the operator. The  
 506 identifying certificate shall include a unique number, and the  
 507 certificate shall be permanently marked with the operator's  
 508 name, the operator's sales tax number, and the maximum number of  
 509 machines to be operated under the certificate. An identifying  
 510 certificate shall not be transferred from one operator to  
 511 another. The identifying certificate must be conspicuously  
 512 displayed on the premises where the coin-operated amusement  
 513 machines are being operated.

514 b. The operator of the machine must obtain an identifying  
 515 certificate before the machine is first operated in the state  
 516 and by July 1 of each year thereafter. The annual fee for each  
 517 certificate shall be based on the number of machines identified  
 518 on the application times \$30 and is due and payable upon  
 519 application for the identifying device. The application shall  
 520 contain the operator's name, sales tax number, business address  
 521 where the machines are being operated, and the number of  
 522 machines in operation at that place of business by the operator.

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523 No operator may operate more machines than are listed on the  
 524 certificate. A new certificate is required if more machines are  
 525 being operated at that location than are listed on the  
 526 certificate. The fee for the new certificate shall be based on  
 527 the number of additional machines identified on the application  
 528 form times \$30.

529 c. A penalty of \$250 per machine is imposed on the operator  
 530 for failing to properly obtain and display the required  
 531 identifying certificate. A penalty of \$250 is imposed on the  
 532 lessee of any machine placed in a place of business without a  
 533 proper current identifying certificate. Such penalties shall  
 534 apply in addition to all other applicable taxes, interest, and  
 535 penalties.

536 d. Operators of coin-operated amusement machines must  
 537 obtain a separate sales and use tax certificate of registration  
 538 for each county in which such machines are located. One sales  
 539 and use tax certificate of registration is sufficient for all of  
 540 the operator's machines within a single county.

541 4. The provisions of this paragraph do not apply to coin-  
 542 operated amusement machines owned and operated by churches or  
 543 synagogues.

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

548 6. The department may adopt rules necessary to administer  
 549 the provisions of this paragraph.

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

551 a. Detective, burglar protection, and other protection

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552 services (NAICS National Numbers 561611, 561612, 561613, and  
 553 561621). Fingerprint services required under s. 790.06 or s.  
 554 790.062 are not subject to the tax. Any law enforcement officer,  
 555 as defined in s. 943.10, who is performing approved duties as  
 556 determined by his or her local law enforcement agency in his or  
 557 her capacity as a law enforcement officer, and who is subject to  
 558 the direct and immediate command of his or her law enforcement  
 559 agency, and in the law enforcement officer's uniform as  
 560 authorized by his or her law enforcement agency, is performing  
 561 law enforcement and public safety services and is not performing  
 562 detective, burglar protection, or other protective services, if  
 563 the law enforcement officer is performing his or her approved  
 564 duties in a geographical area in which the law enforcement  
 565 officer has arrest jurisdiction. Such law enforcement and public  
 566 safety services are not subject to tax irrespective of whether  
 567 the duty is characterized as "extra duty," "off-duty," or  
 568 "secondary employment," and irrespective of whether the officer  
 569 is paid directly or through the officer's agency by an outside  
 570 source. The term "law enforcement officer" includes full-time or  
 571 part-time law enforcement officers, and any auxiliary law  
 572 enforcement officer, when such auxiliary law enforcement officer  
 573 is working under the direct supervision of a full-time or part-  
 574 time law enforcement officer.

575 b. Nonresidential cleaning, excluding cleaning of the  
 576 interiors of transportation equipment, and nonresidential  
 577 building pest control services (NAICS National Numbers 561710  
 578 and 561720).

579 2. As used in this paragraph, "NAICS" means those  
 580 classifications contained in the North American Industry

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581 Classification System, as published in 2007 by the Office of  
582 Management and Budget, Executive Office of the President.

583 3. Charges for detective, burglar protection, and other  
584 protection security services performed in this state but used  
585 outside this state are exempt from taxation. Charges for  
586 detective, burglar protection, and other protection security  
587 services performed outside this state and used in this state are  
588 subject to tax.

589 4. If a transaction involves both the sale or use of a  
590 service taxable under this paragraph and the sale or use of a  
591 service or any other item not taxable under this chapter, the  
592 consideration paid must be separately identified and stated with  
593 respect to the taxable and exempt portions of the transaction or  
594 the entire transaction shall be presumed taxable. The burden  
595 shall be on the seller of the service or the purchaser of the  
596 service, whichever applicable, to overcome this presumption by  
597 providing documentary evidence as to which portion of the  
598 transaction is exempt from tax. The department is authorized to  
599 adjust the amount of consideration identified as the taxable and  
600 exempt portions of the transaction; however, a determination  
601 that the taxable and exempt portions are inaccurately stated and  
602 that the adjustment is applicable must be supported by  
603 substantial competent evidence.

604 5. Each seller of services subject to sales tax pursuant to  
605 this paragraph shall maintain a monthly log showing each  
606 transaction for which sales tax was not collected because the  
607 services meet the requirements of subparagraph 3. for out-of-  
608 state use. The log must identify the purchaser's name, location  
609 and mailing address, and federal employer identification number,

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610 if a business, or the social security number, if an individual,  
611 the service sold, the price of the service, the date of sale,  
612 the reason for the exemption, and the sales invoice number. The  
613 monthly log shall be maintained pursuant to the same  
614 requirements and subject to the same penalties imposed for the  
615 keeping of similar records pursuant to this chapter.

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

- 620 a. Is not legal tender;
- 621 b. If legal tender, is sold, exchanged, or traded at a rate  
622 in excess of its face value; or
- 623 c. Is sold, exchanged, or traded at a rate based on its  
624 precious metal content.

625 2. Such tax shall be at a rate of 6 percent of the price at  
626 which the coin or currency is sold, exchanged, or traded, except  
627 that, with respect to a coin or currency which is legal tender  
628 of the United States and which is sold, exchanged, or traded,  
629 such tax shall not be levied.

630 3. There are exempt from this tax exchanges of coins or  
631 currency which are in general circulation in, and legal tender  
632 of, one nation for coins or currency which are in general  
633 circulation in, and legal tender of, another nation when  
634 exchanged solely for use as legal tender and at an exchange rate  
635 based on the relative value of each as a medium of exchange.

636 4. With respect to any transaction that involves the sale  
637 of coins or currency taxable under this paragraph in which the  
638 taxable amount represented by the sale of such coins or currency



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639 exceeds \$500, the entire amount represented by the sale of such  
640 coins or currency is exempt from the tax imposed under this  
641 paragraph. The dealer must maintain proper documentation, as  
642 prescribed by rule of the department, to identify that portion  
643 of a transaction which involves the sale of coins or currency  
644 and is exempt under this subparagraph.

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

649 (l) Florists located in this state are liable for sales tax  
650 on sales to retail customers regardless of where or by whom the  
651 items sold are to be delivered. Florists located in this state  
652 are not liable for sales tax on payments received from other  
653 florists for items delivered to customers in this state.

654 (m) Operators of game concessions or other concessionaires  
655 who customarily award tangible personal property as prizes may,  
656 in lieu of paying tax on the cost price of such property, pay  
657 tax on 25 percent of the gross receipts from such concession  
658 activity.

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

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

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

667 (5) Notwithstanding any other provision of this chapter,

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668 the maximum amount of tax imposed under this chapter and  
669 collected on each sale or use of a boat in this state may not  
670 exceed \$18,000 and on each repair of a boat in this state may  
671 not exceed \$60,000.

672 Section 5. Section 212.0596, Florida Statutes, is amended  
673 to read:

674 212.0596 Taxation of ~~remote mail order~~ sales.—

675 (1) For purposes of this chapter, a "~~remote mail order~~  
676 sale" is a retail sale of tangible personal property or services  
677 taxable under this chapter which is, ordered by mail, telephone,  
678 the Internet, or other means of communication, from a dealer who  
679 receives the order outside of this state in another state of the  
680 United States, or in a commonwealth, territory, or other area  
681 under the jurisdiction of the United States, and transports the  
682 property, ~~or~~ causes the property to be transported, or provides  
683 the services whether or not by mail, from any jurisdiction ~~of~~  
684 the United States, including this state, to a person in this  
685 state, including the person who ordered the property or  
686 services.

687 (2) Every dealer as defined in s. 212.06(2)(c) who makes a  
688 ~~remote mail order~~ sale is subject to the power of this state to  
689 levy and collect the tax imposed by this chapter when any of the  
690 following applies:

691 (a) The dealer is a corporation doing business under the  
692 laws of this state or is a person domiciled in, a resident of,  
693 or a citizen of, this state. ~~+~~

694 (b) The dealer maintains retail establishments or offices  
695 in this state, regardless of whether the ~~remote mail order~~ sales  
696 thus subject to taxation by this state result from or are

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697 related in any other way to the activities of such  
698 establishments or offices.~~†~~

699 (c) The dealer has agents in this state who solicit  
700 business or transact business on behalf of the dealer,  
701 regardless of whether the ~~remote mail order~~ sales thus subject  
702 to taxation by this state result from or are related in any  
703 other way to such solicitation or transaction of business,  
704 except that a printer who mails or delivers for an out-of-state  
705 print purchaser material the printer printed for it is shall not  
706 ~~be~~ deemed to be the print purchaser's agent for purposes of this  
707 paragraph.~~†~~

708 (d) The property was delivered in this state in fulfillment  
709 of a sales contract that was entered into in this state, in  
710 accordance with applicable conflict of laws rules, when a person  
711 in this state accepted an offer by ordering the property.~~†~~

712 (e) The dealer, by purposefully or systematically  
713 exploiting the market provided by this state by any media-  
714 assisted, media-facilitated, or media-solicited means,  
715 including, but not limited to, direct mail advertising,  
716 unsolicited distribution of catalogs, computer-assisted  
717 shopping, television, radio, or other electronic media, or  
718 magazine or newspaper advertisements or other media, creates  
719 nexus with this state.~~†~~

720 (f) Through compact or reciprocity with another  
721 jurisdiction of the United States, that jurisdiction uses its  
722 taxing power and its jurisdiction over the retailer in support  
723 of this state's taxing power.~~†~~

724 (g) The dealer consents, expressly or by implication, to  
725 the imposition of the tax imposed under ~~by~~ this chapter.~~†~~

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726 (h) The dealer is subject to service of process under s.  
727 48.181.~~†~~

728 (i) The dealer's ~~remote mail order~~ sales are subject to the  
729 power of this state to tax sales or to require the dealer to  
730 collect use taxes under a statute or statutes of the United  
731 States.~~†~~

732 (j) The dealer owns real property or tangible personal  
733 property that is physically in this state. For purposes of this  
734 paragraph, ~~except that~~ a dealer whose only property, ~~(including~~  
735 property owned by an affiliate,~~†~~ in this state is located at the  
736 premises of a printer with which the vendor has contracted for  
737 printing~~†~~ and is either a final printed product, ~~or~~ property  
738 that which becomes a part of the final printed product, or  
739 property from which the printed product is produced, is not  
740 deemed to own such property. ~~for purposes of this paragraph.~~

741 (k) The dealer, while not having nexus with this state on  
742 any of the bases described in paragraphs (a)-(j) or paragraph  
743 (l), is a corporation that is a member of an affiliated group of  
744 corporations, as defined in s. 1504(a) of the Internal Revenue  
745 Code, whose members are includable under s. 1504(b) of the  
746 Internal Revenue Code and whose members are eligible to file a  
747 consolidated tax return for federal corporate income tax  
748 purposes and any parent or subsidiary corporation in the  
749 affiliated group has nexus with this state on one or more of the  
750 bases described in paragraphs (a)-(j) or paragraph (l).~~†~~~~or~~

751 (l) The dealer or the dealer's activities, have sufficient  
752 ~~connection with or relationship to this state or its residents~~  
753 ~~of some type~~ other than those described in paragraphs (a)-(k),  
754 result in making a substantial number of remote sales under

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755 ~~subsection (3) to create nexus empowering this state to tax its~~  
 756 ~~mail order sales or to require the dealer to collect sales tax~~  
 757 ~~or accrue use tax.~~

758 (3) (a) Every person dealer engaged in the business of  
 759 making a substantial number of remote mail order sales is a  
 760 dealer for purposes of this chapter subject to the requirements  
 761 of this chapter for cooperation of dealers in collection of  
 762 taxes and in administration of this chapter, except that no fee  
 763 shall be imposed upon such dealer for carrying out any required  
 764 activity.

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

767 1. Conducting 200 or more separate retail sales of tangible  
 768 personal property or services taxable under this chapter in the  
 769 previous calendar year to be delivered to a location within this  
 770 state; or

771 2. Conducting any number of retail sales of tangible  
 772 personal property or services taxable under this chapter in an  
 773 amount exceeding \$100,000 in the previous calendar year to be  
 774 delivered to a location within this state.

775  
 776 For purposes of this paragraph, tangible personal property or  
 777 services taxable under this chapter which are delivered to a  
 778 location within this state are presumed to be used, consumed,  
 779 distributed, or stored to be used or consumed in this state.

780 (4) The department shall, with the consent of another  
 781 jurisdiction of the United States whose cooperation is needed,  
 782 enforce this chapter in that jurisdiction, either directly or,  
 783 at the option of that jurisdiction, through its officers or

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784 employees.

785 (5) The tax required under this section to be collected and  
 786 any amount unreturned to a purchaser that is not tax but was  
 787 collected from the purchaser under the representation that it  
 788 was tax constitute funds of the State of Florida from the moment  
 789 of collection.

790 ~~(6) Notwithstanding other provisions of law, a dealer who~~  
 791 ~~makes a mail order sale in this state is exempt from collecting~~  
 792 ~~and remitting any local option surtax on the sale, unless the~~  
 793 ~~dealer is located in a county that imposes a surtax within the~~  
 794 ~~meaning of s. 212.054(3)(a), the order is placed through the~~  
 795 ~~dealer's location in such county, and the property purchased is~~  
 796 ~~delivered into such county or into another county in this state~~  
 797 ~~that levies the surtax, in which case the provisions of s.~~  
 798 ~~212.054(3)(a) are applicable.~~

799 (7) The department may establish by rule procedures for  
 800 collecting the use tax from unregistered persons who but for  
 801 their mail order purchases would not be required to remit sales  
 802 or use tax directly to the department. The procedures may  
 803 provide for waiver of registration, provisions for irregular  
 804 remittance of tax, elimination of the collection allowance, and  
 805 nonapplication of local option surtaxes.

806 Section 6. Section 212.05965, Florida Statutes, is created  
 807 to read:

808 212.05965 Taxation of marketplace sales.-

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

810 (a) "Marketplace" means any physical place or electronic  
 811 medium through which tangible personal property or services  
 812 taxable under this chapter are offered for sale.

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813 (b) "Marketplace provider" means any person who facilitates  
 814 through a marketplace a retail sale by a marketplace seller and  
 815 engages:

816 1. Directly or indirectly, including through one or more  
 817 members of an affiliated group as defined in s. 1504(a) of the  
 818 Internal Revenue Code of 1986, in any of the following:

819 a. Transmitting or otherwise communicating the offer or  
 820 acceptance between the buyer and seller.

821 b. Owning or operating the infrastructure, whether  
 822 electronic or physical, or the technology that brings buyers and  
 823 sellers together.

824 c. Providing a virtual currency that buyers are allowed or  
 825 required to use to purchase products from the seller.

826 d. Software development or research and development  
 827 activities related to any of the activities described in  
 828 subparagraph 2., if such activities are directly related to a  
 829 marketplace operated by the person or by an affiliated group;  
 830 and

831 2. In any of the following activities with respect to the  
 832 seller's products:

833 a. Providing payment processing services.

834 b. Providing fulfillment or storage services.

835 c. Listing products for sale.

836 d. Setting prices.

837 e. Branding sales as those of the marketplace provider.

838 f. Taking orders.

839 g. Advertising or promoting.

840 h. Providing customer service or accepting or assisting  
 841 with returns or exchanges.

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842 (c) "Marketplace seller" means a person who has an  
 843 agreement with a marketplace provider and makes retail sales of  
 844 tangible personal property or services taxable under this  
 845 chapter through a marketplace owned, operated, or controlled by  
 846 a marketplace provider.

847 (2) Every marketplace provider that is physically located  
 848 in this state, or that is making or facilitating through a  
 849 marketplace a substantial number of remote sales as defined in  
 850 s. 212.0596(3) (b), is subject to the requirements imposed by  
 851 this chapter on dealers for registration and for the collection  
 852 and remittance of taxes and the administration of this chapter.

853 (3) A marketplace provider shall certify to its marketplace  
 854 sellers that it will collect and remit the tax imposed under  
 855 this chapter on taxable retail sales made through the  
 856 marketplace. Such certification may be included in the agreement  
 857 between the marketplace provider and marketplace seller.

858 (4) (a) A marketplace seller may not collect and remit the  
 859 tax under this chapter on a taxable retail sale when the sale is  
 860 made through the marketplace and the marketplace provider  
 861 certifies, as required by subsection (3), that it will collect  
 862 and remit such tax. A marketplace seller shall exclude such  
 863 sales made through the marketplace from the marketplace seller's  
 864 tax return under s. 212.11.

865 (b)1. A marketplace seller physically located in this state  
 866 shall register, collect, and remit the tax imposed under this  
 867 chapter on all taxable retail sales made outside of the  
 868 marketplace.

869 2. A marketplace seller making a substantial number of  
 870 remote sales as defined in s. 212.0596(3) (b) shall register,

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871 collect, and remit the tax imposed under this chapter on all  
 872 taxable retail sales made outside of the marketplace. Sales made  
 873 through the marketplace are not considered for purposes of  
 874 determining if the seller has made a substantial number of  
 875 remote sales.

876 (5) (a) A marketplace provider shall allow the department to  
 877 examine and audit its books and records pursuant to s. 212.13.  
 878 If the department audits a marketplace provider, the department  
 879 may not propose a tax assessment on the marketplace seller for  
 880 the same retail sales unless the marketplace seller provides  
 881 incorrect or incomplete information to the marketplace provider  
 882 as described in paragraph (b).

883 (b) The marketplace provider is relieved of liability for  
 884 the tax for the retail sale, and the marketplace seller or  
 885 customer is liable for the tax imposed under this chapter if:

886 1. The marketplace provider demonstrates to the  
 887 satisfaction of the department that the marketplace provider  
 888 made a reasonable effort to obtain accurate information related  
 889 to the retail sales facilitated through the marketplace from the  
 890 marketplace seller, but the failure to collect and pay the  
 891 correct amount of tax imposed under this chapter was due to  
 892 incorrect or incomplete information provided by the marketplace  
 893 seller to the marketplace provider; or

894 2. The marketplace seller or the customer has already  
 895 remitted the tax imposed under this chapter for a taxable retail  
 896 sale.

897  
 898 This paragraph does not apply to a retail sale for which the  
 899 marketplace provider is the seller, if the marketplace provider

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900 and marketplace seller are related parties, or if transactions  
 901 between a marketplace seller and marketplace buyer are not  
 902 conducted at arm's length.

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

905 (7) A marketplace provider and marketplace seller may agree  
 906 by contract, or otherwise, that if a marketplace provider pays  
 907 the tax imposed under this chapter on a retail sale facilitated  
 908 through a marketplace for a marketplace seller as a result of an  
 909 audit or otherwise, the marketplace provider has the right to  
 910 recover such tax and any associated interest and penalties from  
 911 the marketplace seller.

912 (8) Consistent with s. 213.21, the department may  
 913 compromise any tax, interest, or penalty assessed on retail  
 914 sales conducted through a marketplace.

915 (9) For purposes of this section, the limitations in ss.  
 916 213.30(3) and 213.756(2) apply.

917 Section 7. Paragraph (c) of subsection (2) and paragraph  
 918 (a) of subsection (5) of section 212.06, Florida Statutes, are  
 919 amended to read:

920 212.06 Sales, storage, use tax; collectible from dealers;  
 921 "dealer" defined; dealers to collect from purchasers;  
 922 legislative intent as to scope of tax.-

923 (2)

924 (c) The term "dealer" is further defined to mean every  
 925 person, as used in this chapter, who sells at retail or who  
 926 offers for sale at retail, or who has in his or her possession  
 927 for sale at retail; or for use, consumption, or distribution; or  
 928 for storage to be used or consumed in this state, tangible

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929 personal property as defined herein, including a retailer who  
 930 transacts a remote mail order sale and a marketplace provider.

931 (5) (a) 1. Except as provided in subparagraph 2., it is not  
 932 the intention of this chapter to levy a tax upon tangible  
 933 personal property imported, produced, or manufactured in this  
 934 state for export, provided that tangible personal property may  
 935 not be considered as being imported, produced, or manufactured  
 936 for export unless the importer, producer, or manufacturer  
 937 delivers the same to a licensed exporter for exporting or to a  
 938 common carrier for shipment outside the state or mails the same  
 939 by United States mail to a destination outside the state; or, in  
 940 the case of aircraft being exported under their own power to a  
 941 destination outside the continental limits of the United States,  
 942 by submission to the department of a duly signed and validated  
 943 United States customs declaration, showing the departure of the  
 944 aircraft from the continental United States; and further with  
 945 respect to aircraft, the canceled United States registry of said  
 946 aircraft; or in the case of parts and equipment installed on  
 947 aircraft of foreign registry, by submission to the department of  
 948 documentation, the extent of which shall be provided by rule,  
 949 showing the departure of the aircraft from the continental  
 950 United States; nor is it the intention of this chapter to levy a  
 951 tax on any sale which the state is prohibited from taxing under  
 952 the Constitution or laws of the United States. Every retail sale  
 953 made to a person physically present at the time of sale shall be  
 954 presumed to have been delivered in this state.

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

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958 specified in sub-subparagraph d. However, a Florida dealer will  
 959 be relieved from the requirements of collecting taxes pursuant  
 960 to this subparagraph if the Florida dealer obtains from the  
 961 purchaser an affidavit setting forth the purchaser's name,  
 962 address, state taxpayer identification number, and a statement  
 963 that the purchaser is aware of his or her state's use tax laws,  
 964 is a registered dealer in Florida or another state, or is  
 965 purchasing the tangible personal property for resale or is  
 966 otherwise not required to pay the tax on the transaction. The  
 967 department may, by rule, provide a form to be used for the  
 968 purposes set forth herein.

969 b. For purposes of this subparagraph, "a cooperating state"  
 970 is one determined by the executive director of the department to  
 971 cooperate satisfactorily with this state in collecting taxes on  
 972 remote mail order sales. No state shall be so determined unless  
 973 it meets all the following minimum requirements:

974 (I) It levies and collects taxes on remote mail order sales  
 975 of property transported from that state to persons in this  
 976 state, as described in s. 212.0596, upon request of the  
 977 department.

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

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

985 (IV) Such state authorizes the department to audit dealers  
 986 within its jurisdiction who make remote mail order sales that

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987 are the subject of s. 212.0596, or makes arrangements deemed  
988 adequate by the department for auditing them with its own  
989 personnel.

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

995 c. For purposes of this subparagraph, "sales of tangible  
996 personal property to be transported to a cooperating state"  
997 means remote ~~mail-order~~ sales to a person who is in the  
998 cooperating state at the time the order is executed, from a  
999 dealer who receives that order in this state.

1000 d. The tax levied by sub-subparagraph a. shall be at the  
1001 rate at which such a sale would have been taxed pursuant to the  
1002 cooperating state's tax laws if consummated in the cooperating  
1003 state by a dealer and a purchaser, both of whom were physically  
1004 present in that state at the time of the sale.

1005 e. The tax levied by sub-subparagraph a., when collected,  
1006 shall be held in the State Treasury in trust for the benefit of  
1007 the cooperating state and shall be paid to it at a time agreed  
1008 upon between the department, acting for this state, and the  
1009 cooperating state or the department or agency designated by it  
1010 to act for it; however, such payment shall in no event be made  
1011 later than 30 days from the last day of the calendar quarter  
1012 after the tax was collected. Funds held in trust for the benefit  
1013 of a cooperating state shall not be subject to the service  
1014 charges imposed by s. 215.20.

1015 f. The department is authorized to perform such acts and to

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1016 provide such cooperation to a cooperating state with reference  
1017 to the tax levied by sub-subparagraph a. as is required of the  
1018 cooperating state by sub-subparagraph b.

1019 g. In furtherance of this act, dealers selling tangible  
1020 personal property for delivery in another state shall make  
1021 available to the department, upon request of the department,  
1022 records of all tangible personal property so sold. Such records  
1023 shall include a description of the property, the name and  
1024 address of the purchaser, the name and address of the person to  
1025 whom the property was sent, the purchase price of the property,  
1026 information regarding whether sales tax was paid in this state  
1027 on the purchase price, and such other information as the  
1028 department may by rule prescribe.

1029 Section 8. Disaster preparedness supplies; sales tax  
1030 holiday.-

1031 (1) The tax levied under chapter 212, Florida Statutes, may  
1032 not be collected during the period from June 1, 2019, through  
1033 June 14, 2019, on the retail sale of:

1034 (a) A portable self-powered light source selling for \$20 or  
1035 less.

1036 (b) A portable self-powered radio, two-way radio, or  
1037 weather-band radio selling for \$50 or less.

1038 (c) A tarpaulin or other flexible waterproof sheeting  
1039 selling for \$50 or less.

1040 (d) An item normally sold as, or generally advertised as, a  
1041 ground anchor system or tie-down kit and selling for \$50 or  
1042 less.

1043 (e) A gas or diesel fuel tank selling for \$25 or less.

1044 (f) A package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt,

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1045 or 9-volt batteries, excluding automobile and boat batteries,  
 1046 selling for \$30 or less.  
 1047 (g) A nonelectric food storage cooler selling for \$30 or  
 1048 less.  
 1049 (h) A portable generator used to provide light or  
 1050 communications or preserve food in the event of a power outage  
 1051 and selling for \$750 or less.  
 1052 (i) Reusable ice selling for \$10 or less.  
 1053 (j) Impact-resistant windows, when sold in units of 20 or  
 1054 fewer.  
 1055 (k) Impact-resistant doors, when sold in units of 10 or  
 1056 fewer.  
 1057  
 1058 The exemptions under paragraphs (j) and (k) apply to purchases  
 1059 made by an owner of residential real property where the impact-  
 1060 resistant windows or impact-resistant doors will be installed.  
 1061 (2) The Department of Revenue may, and all conditions are  
 1062 deemed met to, adopt emergency rules pursuant to s. 120.54(4),  
 1063 Florida Statutes, to implement this section.  
 1064 (3) The tax exemptions provided in this section do not  
 1065 apply to sales within a theme park or an entertainment complex  
 1066 as defined in s. 509.013(9), Florida Statutes, within a public  
 1067 lodging establishment as defined in s. 509.013(4), Florida  
 1068 Statutes, or within an airport as defined in s. 330.27(2),  
 1069 Florida Statutes.  
 1070 (4) For the 2018-2019 fiscal year, the sum of \$70,072 in  
 1071 nonrecurring funds is appropriated from the General Revenue Fund  
 1072 to the Department of Revenue for the purpose of implementing  
 1073 this section.

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1074 (5) This section shall take effect upon this act becoming a  
 1075 law.  
 1076 Section 9. Paragraph (a) of subsection (1) and paragraph  
 1077 (a) of subsection (5) of section 212.12, Florida Statutes, are  
 1078 amended to read:  
 1079 212.12 Dealer's credit for collecting tax; penalties for  
 1080 noncompliance; powers of Department of Revenue in dealing with  
 1081 delinquents; brackets applicable to taxable transactions;  
 1082 records required.—  
 1083 (1)(a)1. Notwithstanding any other law and for the purpose  
 1084 of compensating persons granting licenses for and the lessors of  
 1085 real and personal property taxed hereunder, for the purpose of  
 1086 compensating dealers in tangible personal property, for the  
 1087 purpose of compensating dealers providing communication services  
 1088 and taxable services, for the purpose of compensating owners of  
 1089 places where admissions are collected, and for the purpose of  
 1090 compensating remitters of any taxes or fees reported on the same  
 1091 documents utilized for the sales and use tax, as compensation  
 1092 for the keeping of prescribed records, filing timely tax  
 1093 returns, and the proper accounting and remitting of taxes by  
 1094 them, such seller, person, lessor, dealer, owner, and remitter  
 1095 (except dealers who make ~~remote mail-order~~ sales) who files the  
 1096 return required pursuant to s. 212.11 only by electronic means  
 1097 and who pays the amount due on such return only by electronic  
 1098 means shall be allowed 2.5 percent of the amount of the tax due,  
 1099 accounted for, and remitted to the department in the form of a  
 1100 deduction. However, if the amount of the tax due and remitted to  
 1101 the department by electronic means for the reporting period  
 1102 exceeds \$1,200, an allowance is not allowed for all amounts in



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1103 excess of \$1,200. For purposes of this subparagraph, the term  
 1104 "electronic means" has the same meaning as provided in s.  
 1105 213.755(2)(c).

1106 2. The executive director of the department is authorized  
 1107 to negotiate a collection allowance, pursuant to rules  
 1108 promulgated by the department, with a dealer who makes remote  
 1109 ~~mail-order~~ sales. The rules of the department shall provide  
 1110 guidelines for establishing the collection allowance based upon  
 1111 the dealer's estimated costs of collecting the tax, the volume  
 1112 and value of the dealer's remote ~~mail-order~~ sales to purchasers  
 1113 in this state, and the administrative and legal costs and  
 1114 likelihood of achieving collection of the tax absent the  
 1115 cooperation of the dealer. However, in no event shall the  
 1116 collection allowance negotiated by the executive director exceed  
 1117 10 percent of the tax remitted for a reporting period.

1118 (5)(a) The department is authorized to audit or inspect the  
 1119 records and accounts of dealers defined herein, including audits  
 1120 or inspections of dealers who make remote ~~mail-order~~ sales to  
 1121 the extent permitted by another state, and to correct by credit  
 1122 any overpayment of tax, and, in the event of a deficiency, an  
 1123 assessment shall be made and collected. No administrative  
 1124 finding of fact is necessary prior to the assessment of any tax  
 1125 deficiency.

1126 Section 10. Paragraph (f) of subsection (3) of section  
 1127 212.18, Florida Statutes, is amended to read:

1128 212.18 Administration of law; registration of dealers;  
 1129 rules.-

1130 (3)

1131 (f) As used in this paragraph, the term "exhibitor" means a

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1132 person who enters into an agreement authorizing the display of  
 1133 tangible personal property or services at a convention or a  
 1134 trade show. The following provisions apply to the registration  
 1135 of exhibitors as dealers under this chapter:

1136 1. An exhibitor whose agreement prohibits the sale of  
 1137 tangible personal property or services subject to the tax  
 1138 imposed in this chapter is not required to register as a dealer.

1139 2. An exhibitor whose agreement provides for the sale at  
 1140 wholesale only of tangible personal property or services subject  
 1141 to the tax imposed by this chapter must obtain a resale  
 1142 certificate from the purchasing dealer but is not required to  
 1143 register as a dealer.

1144 3. An exhibitor whose agreement authorizes the retail sale  
 1145 of tangible personal property or services subject to the tax  
 1146 imposed by this chapter must register as a dealer and collect  
 1147 the tax on such sales.

1148 4. An exhibitor who makes a remote ~~mail-order~~ sale pursuant  
 1149 to s. 212.0596 must register as a dealer.

1150 A person who conducts a convention or a trade show must make his  
 1151 or her exhibitor's agreements available to the department for  
 1152 inspection and copying.

1153 Section 11. For the purpose of incorporating the amendment  
 1154 made by this act to section 212.0596, Florida Statutes, in a  
 1155 reference thereto, subsection (4) of section 212.20, Florida  
 1156 Statutes, is reenacted to read:

1157 212.20 Funds collected, disposition; additional powers of  
 1158 department; operational expense; refund of taxes adjudicated  
 1159 unconstitutionally collected.-  
 1160

23-00759B-19

20191112\_\_

1161 (4) When there has been a final adjudication that any tax  
 1162 pursuant to s. 212.0596 was levied, collected, or both, contrary  
 1163 to the Constitution of the United States or the State  
 1164 Constitution, the department shall, in accordance with rules,  
 1165 determine, based upon claims for refund and other evidence and  
 1166 information, who paid such tax or taxes, and refund to each such  
 1167 person the amount of tax paid. For purposes of this subsection,  
 1168 a "final adjudication" is a decision of a court of competent  
 1169 jurisdiction from which no appeal can be taken or from which the  
 1170 official or officials of this state with authority to make such  
 1171 decisions has or have decided not to appeal.

1172 Section 12. (1) The Department of Revenue is authorized,  
 1173 and all conditions are deemed met, to adopt emergency rules  
 1174 pursuant to s. 120.54(4), Florida Statutes, for the purpose of  
 1175 administering this act.

1176 (2) Notwithstanding any other law, emergency rules adopted  
 1177 pursuant to subsection (1) are effective for 6 months after  
 1178 adoption and may be renewed during the pendency of procedures to  
 1179 adopt permanent rules addressing the subject of the emergency  
 1180 rules.

1181 (3) This section shall take effect upon this act becoming a  
 1182 law and expires July 1, 2020.

1183 Section 13. If any provision of this act or its application  
 1184 to any person or circumstance is held invalid, the invalidity  
 1185 does not affect other provisions or applications of the act  
 1186 which can be given effect without the invalid provision or  
 1187 application, and to this end the provisions of this act are  
 1188 severable.

1189 Section 14. Except as otherwise expressly provided in this

Page 41 of 42

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

23-00759B-19

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1190 act and except for this section, which shall take effect upon  
 1191 this act becoming a law, this act shall take effect July 1,  
 1192 2019.

Page 42 of 42

CODING: Words ~~stricken~~ are deletions; words underlined are additions.





## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Commerce and Tourism, *Chair*  
Finance and Tax, *Vice Chair*  
Appropriations Subcommittee on Criminal  
and Civil Justice  
Banking and Insurance

### JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

### SENATOR JOE GRUTERS

23rd District

March 13, 2019

The Honorable George Gainer, Chair  
Finance and Tax Committee  
525 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Gainer:

I am writing to request that Senate Bill 1112, Taxation, be placed on the agenda of the next Finance and Tax Committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me. Thank you for your time and consideration.

Warm regards,

A handwritten signature in black ink that reads "Joe Gruters".

Joe Gruters

cc: Jose Diez-Arguelles, Staff Director  
Lynn Wells, Committee Administrative Assistant

#### REPLY TO:

- 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
- 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**BILL GALVANO**  
President of the Senate

**DAVID SIMMONS**  
President Pro Tempore

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

1112

Bill Number (if applicable)

762414

Amendment Barcode (if applicable)

Topic Taxation

Name FRENCH BROWN

Job Title lobbyist

Address 215 S. Monroe St. Suite 815  
Street

Phone 850-459-0992

Tallahassee FL 32301  
City State Zip

Email fbrown@jeanread.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FLORIDA Retail Federation & Florida Chamber of Commerce

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

1112

Bill Number (if applicable)

762414

Amendment Barcode (if applicable)

Topic TAXATION

Name JENNIFER GREEN

Job Title \_\_\_\_\_

Address 113 E. COLLEGE AVE, SUITE 400

Street

TALLAHASSEE FL 32301

City

State

Zip

Phone 850/841-1726

Email JENNIFER@LIBERTYPARTNERSHIP.COM

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing BEST BUY

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

1112

*Meeting Date*

*Bill Number (if applicable)*

762414

Topic Taxation

*Amendment Barcode (if applicable)*

Name Carol Bracy

Job Title Consultant

Address 201 E Park Ave, 5th Floor

Phone 850-577-0444

*Street*

Tallahassee

FL

32301

Email carol@ballardfl.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Amazon.com

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16

Meeting Date

112

Bill Number (if applicable)

Topic Business Rent Tax & Remote Sales Tax

Amendment Barcode (if applicable)

Name Greg Black

Job Title Attorney

Address 215 S. Monroe St, Suite 601

Phone 850 521 1709

Street

TLH

FL

32301

Email gblack@gunster.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing International Council of Shopping Centers

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/10/19

Meeting Date

1112

Bill Number (if applicable)

Topic Remote Sales

Amendment Barcode (if applicable)

Name Amber Hughes

Job Title Sr. Legislative Advocate

Address PO Box 1757

Phone 701-3621

Street

Tall.

City

FL

State

32302

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida League of Cities

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

*Meeting Date*

1112

*Bill Number (if applicable)*

Topic Taxation

*Amendment Barcode (if applicable)*

Name Danielle Scoggins

Job Title Vice President of Public Policy

Address 200 South Monroe Street

Phone 850.443.1942

*Street*

Tallahassee

FL

32301

Email \_\_\_\_\_

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing The Florida Realtors Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

1112

Bill Number (if applicable)

Topic TAXATION

Amendment Barcode (if applicable)

Name NANCY STEPHENS

Job Title EXECUTIVE VICE PRESIDENT

Address 1625 SUMMIT LAKE DR.

Phone 850 402 2954

Street

TALAHASSEE

City

FL

State

32317

Zip

Email nancy@ustephen.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FLORIDA POULTRY FEDERATION

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

# THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/16/19  
Meeting Date

1112  
Bill Number (if applicable)

Topic TAXATION

Amendment Barcode (if applicable)

Name NANCY STEPHENS

Job Title \_\_\_\_\_

Address 1625 SOMMIT LAKE DR  
Street

Phone 850 402 2954

TALLAHASSEE FL 32317  
City State Zip

Email nancy@nstephens.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing MANUFACTURERS ASSOCIATION OF FLORIDA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/2019

Meeting Date

1112

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name BRIAN PITS

Job Title Trustee

Address 1119 Newton Ave S.  
Street

Phone 727/897-9291

St. Petersburg FL  
City State

33705  
Zip

Email justice2jesus@yahoo.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/15

Meeting Date

1112

Bill Number (if applicable)

Topic Taxation

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior VP

Address 516 N. W. Hwy

Phone \_\_\_\_\_

Street

TLH

City

FL

State

37301

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

4-16-19

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1112

Meeting Date

Bill Number (if applicable)

Topic Taxes

Amendment Barcode (if applicable)

Name KURT WENNER

Job Title VICE PRESIDENT

Address 106 N. Bronough

Phone 222-5052

Street

Tallahassee FL 32301

Email kwenner@floridataxwatch.org

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FLORIDA TAXWATCH

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/16/19

Meeting Date

1112

Bill Number (if applicable)

Topic TAXATION

Amendment Barcode (if applicable)

Name JENNIFER GREEN

Job Title \_\_\_\_\_

Address 113 E. COLLEGE AVE., SUITE 400

Phone 850/841-1726

TALLAHASSEE, FL 32301

Email JENNIFER@LIBERTYPARTNERSHIP.COM

City State Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing BEST BUY

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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## THE FLORIDA SENATE

**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

April 16, 2019

1112

*Meeting Date**Bill Number (if applicable)*Topic Taxation - Reduction of Business Rent Tax*Amendment Barcode (if applicable)*Name H. Lee MoffittJob Title AttorneyAddress 3327 NW Perimeter RoadPhone 813 760-5712*Street*Palm CityEmail MrSpeaker@aol.com*City**State**Zip*Speaking:  For  Against  InformationWaive Speaking:  In Support  Against  
(The Chair will read this information into the record.)Representing BOMA - Building Owners and Managers Association of FloridaAppearing at request of Chair:  Yes  NoLobbyist registered with Legislature:  Yes  No*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

# CourtSmart Tag Report

Room: SB 401

Case No.:

Type:

Caption: Senate Finance and Tax Committee

Judge:

Started: 4/16/2019 1:03:15 PM

Ends: 4/16/2019 1:59:53 PM

Length: 00:56:39

1:03:14 PM Meeting called to order by Chair Gainer  
1:03:18 PM Roll call  
1:03:19 PM Quorum present  
1:03:36 PM Comments from Chair Gainer  
1:03:56 PM Introduction of Tab 2, SB 1112  
1:04:08 PM Explanation of SB 1112, Taxation by Senator Gruters  
1:04:18 PM Introduction of Amendment Barcode No. 762414 by Chair Gainer  
1:04:34 PM Explanation of Amendment by Senator Gruters  
1:08:49 PM Question from Senator Pizzo  
1:08:59 PM Response from Senator Gruters  
1:11:23 PM Speaker Carol Bracy, Amazon.com  
1:14:38 PM Jennifer Green, Best Buy waives in support  
1:15:06 PM Speaker French Brown, Florida Retail Federation & Florida Chamber of Commerce in support  
1:19:21 PM Closure waived  
1:19:47 PM Amendment adopted  
1:20:02 PM Question from Senator Powell  
1:20:11 PM Response from Senator Gruters  
1:20:52 PM Follow-up question from Senator Powell  
1:20:58 PM Response from Senator Gruters  
1:21:32 PM Additional question from Senator Powell  
1:21:41 PM Response from Senator Gruters  
1:22:35 PM Follow-up question from Senator Powell  
1:22:44 PM Response from Senator Gruters  
1:23:36 PM Additional question from Senator Powell  
1:23:42 PM Response from Senator Gruters  
1:24:25 PM Additional question from Senator Powell  
1:24:32 PM Response from Senator Gruters  
1:26:29 PM Question from Senator Pizzo  
1:26:37 PM Response from Senator Gruters  
1:27:05 PM Greg Black, International Council of Shopping Centers waives in support  
1:27:20 PM H. Lee Moffitt, Building Owners and Managers Association of Florida waives in support  
1:27:35 PM Jennifer Green, Best Buy waives in support  
1:27:44 PM Speaker Kurt Wenner, Florida Taxwatch in support  
1:30:02 PM Brewster Bevis, Associated Industries of Florida waives in support  
1:30:15 PM Speaker Brian Pitts, Justice-2-Jesus  
1:34:15 PM Nancy Stephens, Manufacturers Association of Florida and Florida Poultry Federation waives in support  
1:34:40 PM Danielle Scoggins, The Florida Realtors Association waives in support  
1:34:49 PM Amber Hughes, Florida League of Cities waives in support  
1:35:07 PM Senator Baxley in debate  
1:37:54 PM Senator Powell in debate  
1:39:04 PM Senator Gruters in closure  
1:39:11 PM Roll call  
1:39:53 PM CS/SB 1112 reported favorably  
1:40:11 PM Introduction of Tab 1, CS/SB 1040 by Chair Gainer  
1:40:22 PM Explanation of CS/SB 1040, Discretionary Sales Surtaxes by Senator Lee  
1:46:09 PM Demetrius Miner, Americans for Prosperity waives in support  
1:46:18 PM Speaker Brian Pitts, Justice-2-Jesus  
1:48:48 PM Senator Lee in closure  
1:50:12 PM Question from Senator Pizzo  
1:51:16 PM Response from Senator Lee  
1:52:33 PM Follow-up question from Senator Pizzo  
1:52:39 PM Response from Senator Lee

**1:54:33 PM** Question from Senator Bradley  
**1:54:46 PM** Response from Senator Lee  
**1:56:03 PM** Follow-up question from Senator Bradley  
**1:56:15 PM** Response from Senator Lee  
**1:56:59 PM** Additional question from Senator Bradley  
**1:57:19 PM** Response from Senator Lee  
**1:59:09 PM** Roll call  
**1:59:15 PM** CS/SB 1040 reported favorably  
**1:59:38 PM** Senator Bradley moves to adjourn