

By Representative Wallace

1 A bill to be entitled
2 An act relating to tax on sales, use, and other
3 transactions; amending s. 212.05, F.S.;
4 reducing the rate of the tax on charges for
5 telecommunication service and for electrical
6 power or energy; amending s. 212.12, F.S., to
7 conform; providing an effective date.

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

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11 Section 1. Paragraph (e) of subsection (1) of section
12 212.05, Florida Statutes, 1998 Supplement, is amended to read:

13 212.05 Sales, storage, use tax.--It is hereby declared
14 to be the legislative intent that every person is exercising a
15 taxable privilege who engages in the business of selling
16 tangible personal property at retail in this state, including
17 the business of making mail order sales, or who rents or
18 furnishes any of the things or services taxable under this
19 chapter, or who stores for use or consumption in this state
20 any item or article of tangible personal property as defined
21 herein and who leases or rents such property within the state.

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

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

26 a. All telegraph messages and long-distance telephone
27 calls beginning and terminating in this state,
28 telecommunication service as defined in s. 203.012, and those
29 services described in s. 203.012(2)(a), ~~except that the tax~~
30 ~~rate for charges for telecommunication service is 7 percent.~~

31 b. Any television system program service.

1 c. The installation of telecommunication and
2 telegraphic equipment.

3 d. Electrical power or energy, ~~except that the tax~~
4 ~~rate for charges for electrical power or energy is 7 percent.~~

5 2. For purposes of this chapter, "television system
6 program service" means the transmitting, by any means, of any
7 audio or video signal to a subscriber for other than
8 retransmission, or the installing, connecting, reconnecting,
9 disconnecting, moving, or changing of any equipment related to
10 such service. For purposes of this chapter, the term
11 "telecommunication service" does not include local service
12 provided through a pay telephone. The provisions of s.
13 212.17(3), regarding credit for tax paid on charges
14 subsequently found to be worthless, shall be equally
15 applicable to any tax paid under the provisions of this
16 section on charges for telecommunication or telegraph services
17 or electric power subsequently found to be uncollectible. The
18 word "charges" in this paragraph does not include any excise
19 or similar tax levied by the Federal Government, any political
20 subdivision of the state, or any municipality upon the
21 purchase or sale of telecommunication, television system
22 program, or telegraph service or electric power, which tax is
23 collected by the seller from the purchaser.

24 3. Telegraph messages and telecommunication services
25 which originate or terminate in this state, other than
26 interstate private communication services, and are billed to a
27 customer, telephone number, or device located within this
28 state are taxable under this paragraph. Interstate private
29 communication services are taxable under this paragraph as
30 follows:
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1 a. One hundred percent of the charge imposed at each
2 channel termination point within this state;
3 b. One hundred percent of the charge imposed for the
4 total channel mileage between each channel termination point
5 within this state; and
6 c. The portion of the interstate interoffice channel
7 mileage charge as determined by multiplying said charge times
8 a fraction, the numerator of which is the air miles between
9 the last channel termination point in this state and the
10 vertical and horizontal coordinates, 7856 and 1756,
11 respectively, and the denominator of which is the air miles
12 between the last channel termination point in this state and
13 the first channel termination point outside this state. The
14 denominator of this fraction shall be adjusted, if necessary,
15 by adding the numerator of said fraction to similarly
16 determined air miles in the state in which the other channel
17 termination point is located, so that the summation of the
18 apportionment factor for this state and the apportionment
19 factor for the other state is not greater than one, to ensure
20 that no more than 100 percent of the interstate interoffice
21 channel mileage charge can be taxed by this state and another
22 state.

23 4. The tax imposed pursuant to this paragraph shall
24 not exceed \$50,000 per calendar year on charges to any person
25 for interstate telecommunications services defined in s.
26 203.012(4) and (7)(b), if the majority of such services used
27 by such person are for communications originating outside of
28 this state and terminating in this state. This exemption
29 shall only be granted to holders of a direct pay permit issued
30 pursuant to this subparagraph. No refunds shall be given for
31 taxes paid prior to receiving a direct pay permit. Upon

1 application, the department may issue a direct pay permit to
2 the purchaser of telecommunications services authorizing such
3 purchaser to pay tax on such services directly to the
4 department. Any vendor furnishing telecommunications services
5 to the holder of a valid direct pay permit shall be relieved
6 of the obligation to collect and remit the tax on such
7 service. Tax payments and returns pursuant to a direct pay
8 permit shall be monthly. For purposes of this subparagraph,
9 the term "person" shall be limited to a single legal entity
10 and shall not be construed as meaning a group or combination
11 of affiliated entities or entities controlled by one person or
12 group of persons.

13 5. If the sale of a television system program service,
14 as defined in this paragraph, also involves the sale of an
15 item exempt under s. 212.08(7)(j), the tax shall be applied to
16 the value of the taxable service when it is sold separately.
17 If the company does not offer this service separately, the
18 consideration paid shall be separately identified and stated
19 with respect to the taxable and exempt portions of the
20 transaction as a condition of the exemption, except that the
21 amount identified as taxable shall not be less than the cost
22 of the service.

23 Section 2. Subsection (11) of section 212.12, Florida
24 Statutes, 1998 Supplement, is amended to read:

25 212.12 Dealer's credit for collecting tax; penalties
26 for noncompliance; powers of Department of Revenue in dealing
27 with delinquents; brackets applicable to taxable transactions;
28 records required.--

29 (11) The department is authorized to provide by rule
30 the tax amounts and brackets applicable to all taxable
31 transactions that occur in counties that have a surtax at a

1 rate other than 1 percent which transactions would otherwise
2 have been transactions taxable at the rate of 6 percent.
3 Likewise, the department is authorized to promulgate by rule
4 the tax amounts and brackets applicable to transactions
5 taxable at 3 percent pursuant to s. 212.08(3), ~~transactions~~
6 ~~taxable at 7 percent pursuant to s. 212.05(1)(e)~~, and on
7 transactions which would otherwise have been so taxable in
8 counties which have adopted a discretionary sales surtax.

9 Section 3. This act shall take effect July 1, 1999.

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HOUSE SUMMARY

Reduces the rate of the sales tax on charges for telecommunication service and for electrical power or energy from 7 percent to 6 percent.