

By Representative Wallace

1 A bill to be entitled
2 An act relating to the tax on sales, use, and
3 other transactions; amending s. 212.031, F.S.;
4 excluding certain pass-through charges on
5 commercial real estate leases from such taxes;
6 providing an effective date.

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

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10 Section 1. Paragraph (c) of subsection (1) of section
11 212.031, Florida Statutes, 1998 Supplement, is amended to
12 read:

13 212.031 Lease or rental of or license in real
14 property.--

15 (1)

16 (c) For the exercise of such privilege, as tax is
17 levied in an amount equal to 6 percent of and on the total
18 rent or license fee charged for such real property by the
19 person charging or collecting the rental or license fee. The
20 total rent or license fee charged for such real property shall
21 include payments for the granting of a privilege to use or
22 occupy real property for any purpose and shall include base
23 rent, percentage rents, or similar charges. Such charges shall
24 be included in the total rent or license fee subject to tax
25 under this section whether or not they can be attributed to
26 the ability of the lessor's or licensor's property as used or
27 operated to attract customers. For purposes of this paragraph,
28 the term "total rent or license fee" does not include ad
29 valorem taxes, maintenance charges, or insurance premiums paid
30 for the benefit and protection of the landlord when the
31 proportionate share of each of those items is separately

1 billed on an invoice by the landlord as pass-through charges.
2 Payments for intrinsically valuable personal property such as
3 franchises, trademarks, service marks, logos, or patents are
4 not subject to tax under this section. In the case of a
5 contractual arrangement that provides for both payments
6 taxable as total rent or license fee and payments not subject
7 to tax, the tax shall be based on a reasonable allocation of
8 such payments and shall not apply to that portion which is for
9 the nontaxable payments.

10 Section 2. This act shall take effect July 1, 1999.

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SENATE SUMMARY

Provides that the total rent and license fee for a commercial real estate lease subject to the sales tax does not include a proportionate share of pass-through charges comprised of ad valorem taxes, maintenance charges, and certain insurance premiums.