

By Senators Horne, Dawson-White, Gutman, Diaz-Balart, Forman, Holzendorf and Kirkpatrick

6-482-99

See HB

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

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

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

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

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

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

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

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.