

By Senator Grant

13-1120-00

See HB 513

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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, 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.~~
The tax on calls made with a prepaid telephone calling card

1 shall be collected at the time of sale and remitted by the
2 dealer selling or recharging a prepaid telephone card.

3 (I) A prepaid telephone card or authorization number
4 means the right to exclusively make telephone calls that must
5 be paid for in advance and that enable the origination of
6 calls using an access number, prepaid mobile account, or
7 authorization code, whether manually or electronically dialed.

8 (II) If the sale or recharge of the prepaid telephone
9 calling card does not take place at the dealer's place of
10 business, it shall be deemed to take place at the customer's
11 shipping address or, if no item is shipped, at the customer's
12 address or the location associated with the customer's mobile
13 telephone number.

14 (III) The prepaid phone card constitutes property in
15 this state and subjects the selling dealer to the jurisdiction
16 of this state for purposes of this subsection.

17 b. Any television system program service.

18 c. The installation of telecommunication and
19 telegraphic equipment.

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

22 2. For purposes of this chapter, "television system
23 program service" means the transmitting, by any means, of any
24 audio or video signal to a subscriber for other than
25 retransmission, or the installing, connecting, reconnecting,
26 disconnecting, moving, or changing of any equipment related to
27 such service. For purposes of this chapter, the term
28 "telecommunication service" does not include local service
29 provided through a pay telephone. The provisions of s.
30 212.17(3), regarding credit for tax paid on charges
31 subsequently found to be worthless, shall be equally

1 applicable to any tax paid under the provisions of this
2 section on charges for telecommunication or telegraph services
3 or electric power subsequently found to be uncollectible. The
4 word "charges" in this paragraph does not include any excise
5 or similar tax levied by the Federal Government, any political
6 subdivision of the state, or any municipality upon the
7 purchase or sale of telecommunication, television system
8 program, or telegraph service or electric power, which tax is
9 collected by the seller from the purchaser.

10 3. Telegraph messages and telecommunication services
11 which originate or terminate in this state, other than
12 interstate private communication services, and are billed to a
13 customer, telephone number, or device located within this
14 state are taxable under this paragraph. Interstate private
15 communication services are taxable under this paragraph as
16 follows:

17 a. One hundred percent of the charge imposed at each
18 channel termination point within this state;

19 b. One hundred percent of the charge imposed for the
20 total channel mileage between each channel termination point
21 within this state; and

22 c. The portion of the interstate interoffice channel
23 mileage charge as determined by multiplying said charge times
24 a fraction, the numerator of which is the air miles between
25 the last channel termination point in this state and the
26 vertical and horizontal coordinates, 7856 and 1756,
27 respectively, and the denominator of which is the air miles
28 between the last channel termination point in this state and
29 the first channel termination point outside this state. The
30 denominator of this fraction shall be adjusted, if necessary,
31 by adding the numerator of said fraction to similarly

1 determined air miles in the state in which the other channel
2 termination point is located, so that the summation of the
3 apportionment factor for this state and the apportionment
4 factor for the other state is not greater than one, to ensure
5 that no more than 100 percent of the interstate interoffice
6 channel mileage charge can be taxed by this state and another
7 state.

8 4. The tax imposed pursuant to this paragraph shall
9 not exceed \$50,000 per calendar year on charges to any person
10 for interstate telecommunications services defined in s.
11 203.012(4) and (7)(b), if the majority of such services used
12 by such person are for communications originating outside of
13 this state and terminating in this state. This exemption
14 shall only be granted to holders of a direct pay permit issued
15 pursuant to this subparagraph. No refunds shall be given for
16 taxes paid prior to receiving a direct pay permit. Upon
17 application, the department may issue a direct pay permit to
18 the purchaser of telecommunications services authorizing such
19 purchaser to pay tax on such services directly to the
20 department. Any vendor furnishing telecommunications services
21 to the holder of a valid direct pay permit shall be relieved
22 of the obligation to collect and remit the tax on such
23 service. Tax payments and returns pursuant to a direct pay
24 permit shall be monthly. For purposes of this subparagraph,
25 the term "person" shall be limited to a single legal entity
26 and shall not be construed as meaning a group or combination
27 of affiliated entities or entities controlled by one person or
28 group of persons.

29 5. If the sale of a television system program service,
30 as defined in this paragraph, also involves the sale of an
31 item exempt under s. 212.08(7)(j), the tax shall be applied to

1 the value of the taxable service when it is sold separately.
2 If the company does not offer this service separately, the
3 consideration paid shall be separately identified and stated
4 with respect to the taxable and exempt portions of the
5 transaction as a condition of the exemption, except that the
6 amount identified as taxable shall not be less than the cost
7 of the service.

8 Section 2. Subsection (11) of section 212.12, Florida
9 Statutes, is amended to read:

10 212.12 Dealer's credit for collecting tax; penalties
11 for noncompliance; powers of Department of Revenue in dealing
12 with delinquents; brackets applicable to taxable transactions;
13 records required.--

14 (11) The department is authorized to provide by rule
15 the tax amounts and brackets applicable to all taxable
16 transactions that occur in counties that have a surtax at a
17 rate other than 1 percent which transactions would otherwise
18 have been transactions taxable at the rate of 6 percent.
19 Likewise, the department is authorized to promulgate by rule
20 the tax amounts and brackets applicable to transactions
21 taxable at 3 percent pursuant to s. 212.08(3), ~~transactions~~
22 ~~taxable at 7 percent pursuant to s. 212.05(1)(e)~~, and on
23 transactions which would otherwise have been so taxable in
24 counties which have adopted a discretionary sales surtax.

25 Section 3. This act shall take effect July 1, 2000.

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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.