

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

Representative(s) Byrd offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause

and insert:

Section 1. Paragraph (c) of subsection (1) of section 202.12, Florida Statutes, is amended to read:

202.12 Sales of communications services.--The Legislature finds that every person who engages in the business of selling communications services at retail in this state is exercising a taxable privilege. It is the intent of the Legislature that the tax imposed by chapter 203 be administered as provided in this chapter.

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

(c)1. At the rate of 10.8 percent on the retail sales price of any nonresidential direct-to-home satellite service received in this state. The proceeds of the tax imposed under this paragraph shall be accounted for and distributed in

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1 accordance with s. 202.18(2). The gross receipts tax imposed  
2 by chapter 203 shall be collected on the same taxable  
3 transactions and remitted with the tax imposed by this  
4 paragraph.

5 2. At the following rates on the retail sales price of  
6 any direct-to-home satellite service sold to a residential  
7 household and received in this state:

- 8 a. For fiscal year 2002-2003, 10.03 percent.
- 9 b. For fiscal year 2003-2004, 9.26 percent.
- 10 c. For fiscal year 2004-2005, 8.48 percent.
- 11 d. For fiscal year 2005-2006, 7.70 percent.
- 12 e. For fiscal year 2006-2007, 6.93 percent.
- 13 f. For fiscal year 2007-2008, 6.16 percent.
- 14 g. For fiscal year 2008-2009, 5.38 percent.
- 15 h. For fiscal year 2009-2010, 4.60 percent.
- 16 i. For fiscal year 2010-2011 and thereafter, 4  
17 percent.

18 3. At the following rates on the retail sales price of  
19 any cable service sold to a residential household and received  
20 in this state:

- 21 a. For fiscal year 2002-2003, 6.03 percent.
- 22 b. For fiscal year 2003-2004, 5.26 percent.
- 23 c. For fiscal year 2004-2005, 4.48 percent.
- 24 d. For fiscal year 2005-2006, 3.70 percent.
- 25 e. For fiscal year 2006-2007, 2.93 percent.
- 26 f. For fiscal year 2007-2008, 2.16 percent.
- 27 g. For fiscal year 2008-2009, 1.38 percent.
- 28 h. For fiscal year 2009-2010, 0.60 percent.
- 29 i. For fiscal year 2010-2011 and thereafter, the  
30 retail sales price of any cable service sold to a residential  
31 household and received in this state shall be exempt from the

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1 tax imposed by this section but shall remain subject to the  
2 gross receipts tax imposed by chapter 203.

3 Section 2. Effective July 1, 2010, subsection (1) of  
4 section 202.125, Florida Statutes, is amended to read:

5 202.125 Sales of communications services; specified  
6 exemptions.--

7 (1) The separately stated sales price of  
8 communications services sold to residential households is  
9 exempt from the tax imposed by s. 202.12. This exemption shall  
10 not apply to any residence that constitutes all or part of a  
11 public lodging establishment as defined in chapter 509, any  
12 mobile communications service, ~~any cable service~~, or any  
13 direct-to-home satellite service.

14 Section 3. Subsections (1) and (2) of section 202.18,  
15 Florida Statutes, are amended to read:

16 202.18 Allocation and disposition of tax  
17 proceeds.--The proceeds of the communications services taxes  
18 remitted under this chapter shall be treated as follows:

19 (1) The proceeds of the taxes remitted under s.  
20 202.12(1)(a), (b), and (c)3.s. 202.12(1)(a) and (b) shall be  
21 divided as follows:

22 (a) The portion of such proceeds which constitutes  
23 gross receipts taxes, imposed at the rate prescribed in  
24 chapter 203, shall be deposited as provided by law and in  
25 accordance with s. 9, Art. XII of the State Constitution.

26 (b) The remaining portion shall be distributed  
27 according to s. 212.20(6).

28 (2) The proceeds of the taxes remitted under s.  
29 202.12(1)(c)1. and 2.s. 202.12(1)(c) shall be divided as  
30 follows:

31 (a) The portion of such proceeds which constitutes

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1 gross receipts taxes, imposed at the rate prescribed in  
2 chapter 203, shall be deposited as provided by law and in  
3 accordance with s. 9, Art. XII of the State Constitution.

4 (b) With respect to tax levied at the rate of 10.8  
5 percent:

6 1. Sixty-three percent of the proceeds ~~remainder~~ shall  
7 be allocated to the state and distributed pursuant to s.  
8 212.20(6), except that the proceeds allocated pursuant to s.  
9 212.20(6)(d)3. shall be prorated to the participating counties  
10 in the same proportion as that month's collection of the taxes  
11 and fees imposed pursuant to chapter 212 ~~and paragraph (1)(b).~~

12 ~~2.a.(c)1.~~ During each calendar year, the remaining  
13 portion of such proceeds shall be transferred to the Local  
14 Government Half-cent Sales Tax Clearing Trust Fund and shall  
15 be allocated in the same proportion as the allocation of total  
16 receipts of the half-cent sales tax under s. 218.61 and the  
17 emergency distribution under s. 218.65 in the prior state  
18 fiscal year. ~~However, during calendar year 2001, state fiscal~~  
19 ~~year 2000-2001 proportions shall be used.~~

20 ~~b.2.~~ The proportion of the proceeds allocated based on  
21 the emergency distribution under s. 218.65 shall be  
22 distributed pursuant to s. 218.65.

23 ~~c.3.~~ In each calendar year, the proportion of the  
24 proceeds allocated based on the half-cent sales tax under s.  
25 218.61 shall be allocated to each county in the same  
26 proportion as the county's percentage of total sales tax  
27 allocation for the prior state fiscal year and distributed  
28 pursuant to s. 218.62, except that for calendar year 2001,  
29 state fiscal year 2000-2001 proportions shall be used.

30 ~~d.4.~~ The department shall distribute the appropriate  
31 amount to each municipality and county each month at the same

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1 time that local communications services taxes are distributed  
2 pursuant to subsection (3).

3 (c)1. With respect to tax levied pursuant to s.  
4 202.12(1)(c)2., the following percentage of the tax shall be  
5 allocated to the state and distributed pursuant to s.  
6 212.20(6), except that the proceeds allocated pursuant to s.  
7 212.20(6)(d)3. shall be prorated to the participating counties  
8 in the same proportion as that month's collection of the taxes  
9 and fees imposed pursuant to chapter 212.

10 a. For fiscal year 2002-2003, 6.03 percent of the  
11 percentage of tax levied under s.202.12(1)(c)2.a.

12 b. For fiscal year 2003-2004, 5.26 percent of the  
13 percentage of tax levied under s.202.12(1)(c)2.a.

14 c. For fiscal year 2004-2005, 4.48 percent of the  
15 percentage of tax levied under s.202.12(1)(c)2.a.

16 d. For fiscal year 2005-2006, 3.70 percent of the  
17 percentage of tax levied under s.202.12(1)(c)2.a.

18 e. For fiscal year 2006-2007, 2.93 percent of the  
19 percentage of tax levied under s.202.12(1)(c)2.a.

20 f. For fiscal year 2007-2008, 2.16 percent of the  
21 percentage of tax levied under s.202.12(1)(c)2.a.

22 g. For fiscal year 2008-2009, 1.38 percent of the  
23 percentage of tax levied under s.202.12(1)(c)2.a.

24 h. For fiscal year 2009-2010, 0.60 percent of the  
25 percentage of tax levied under s.202.12(1)(c)2.a.

26 i. For fiscal year 2010-2011 and thereafter, no  
27 percentage of the tax shall be allocated to the state.

28 2. During each calendar year, the remaining proceeds  
29 shall be transferred to the Local Government Half-cent Sales  
30 Tax Clearing Trust Fund and shall be allocated in the same  
31 proportion as the allocation of total receipts of the

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1 half-cent sales tax under s. 218.61 and the emergency  
2 distribution under s. 218.65 in the prior state fiscal year.

3 3. The proportion of the proceeds allocated based on  
4 the emergency distribution under s. 218.65 shall be  
5 distributed pursuant to s. 218.65.

6 4. In each calendar year, the proportion of the  
7 proceeds allocated based on the half-cent sales tax under s.  
8 218.61 shall be allocated to each county in the same  
9 proportion as the county's percentage of total sales tax  
10 allocation for the prior state fiscal year and distributed  
11 pursuant to s. 218.62.

12 5. The department shall distribute the appropriate  
13 amount to each municipality and county each month at the same  
14 time that local communications services taxes are distributed  
15 pursuant to subsection (3).

16 Section 4. Subsections (4) and (5) of section 202.19,  
17 Florida Statutes, are amended to read:

18 202.19 Authorization to impose local communications  
19 services tax.--

20 (4)(a)1. Except as otherwise provided in this section,  
21 the tax imposed by any municipality shall be on all  
22 communications services subject to tax under s. 202.12 or  
23 gross receipts tax under chapter 203 which:

24 a. Originate or terminate in this state; and  
25 b. Are charged to a service address in the  
26 municipality.

27 2. With respect to private communications services,  
28 the tax shall be on the sales price of such services provided  
29 within the municipality. In determining the sales price of  
30 private communications services subject to tax, the  
31 communications service provider shall be entitled to use any

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1 method that reasonably allocates the total charges among the  
2 state and local taxing jurisdictions in which channel  
3 termination points are located. An allocation method is deemed  
4 to be reasonable for purposes of this subparagraph if the  
5 communications service provider regularly used such method for  
6 Florida tax purposes prior to December 31, 2000. If a  
7 communications service provider uses a reasonable allocation  
8 method, such provider shall be held harmless from any  
9 liability for additional tax, interest, or penalty based on a  
10 different allocation method.

11 (b)1. Except as otherwise provided in this section,  
12 the tax imposed by any county under subsection (1) shall be on  
13 all communications services subject to tax under s. 202.12 or  
14 gross receipts tax under chapter 203 which:

- 15 a. Originate or terminate in this state; and  
16 b. Are charged to a service address in the  
17 unincorporated area of the county.

18 2. With respect to private communications services,  
19 the tax shall be on the sales price of such services provided  
20 within the unincorporated area of the county. In determining  
21 the amount of charges for private communications services  
22 subject to tax, the communications service provider shall be  
23 entitled to use any method that reasonably allocates the total  
24 charges among the state and local taxing jurisdictions in  
25 which channel termination points are located. An allocation  
26 method is deemed to be reasonable for purposes of this  
27 subparagraph if the communications service provider regularly  
28 used such method for Florida tax purposes prior to December  
29 31, 2000. If a communications service provider uses a  
30 reasonable allocation method, such provider shall be held  
31 harmless from any liability for additional tax, interest, or

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1 penalty based on a different allocation method.

2 (5) In addition to the communications services taxes  
3 authorized by subsection (1), a discretionary sales surtax  
4 that a county or school board has levied under s. 212.055 is  
5 imposed as a local communications services tax under this  
6 section, and the rate shall be determined in accordance with  
7 s. 202.20(3).

8 (a) Except as otherwise provided in this subsection,  
9 each such tax rate shall be applied, in addition to the other  
10 tax rates applied under this chapter, to communications  
11 services subject to tax under s. 202.12 or gross receipts tax  
12 under chapter 203 which:

- 13 1. Originate or terminate in this state; and
- 14 2. Are charged to a service address in the county.

15 (b) With respect to private communications services,  
16 the tax shall be on the sales price of such services provided  
17 within the county. In determining the sales price of private  
18 communications services subject to tax, the communications  
19 service provider shall be entitled to use any method that  
20 reasonably allocates the total charges among the state and  
21 local taxing jurisdictions in which channel termination points  
22 are located. An allocation method is deemed to be reasonable  
23 for purposes of this paragraph if the communications service  
24 provider regularly used such method for Florida tax purposes  
25 prior to December 31, 2000. If a communications service  
26 provider uses a reasonable allocation method, such provider  
27 shall be held harmless from any liability for additional tax,  
28 interest, or penalty based on a different allocation method.

29 Section 5. Effective January 1, 2004, subsections (4)  
30 and (5) of section 202.19, Florida Statutes, as amended by  
31 section 10 of chapter 2001-140, Laws of Florida, are amended



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1 to read:

2 202.19 Authorization to impose local communications  
3 services tax.--

4 (4)(a)1. Except as otherwise provided in this section,  
5 the tax imposed by any municipality shall be on all  
6 communications services subject to tax under s. 202.12 or  
7 gross receipts tax under chapter 203 which:

8 a. Originate or terminate in this state; and

9 b. Are charged to a service address in the  
10 municipality.

11 2. With respect to private communications services,  
12 the tax shall be on the sales price of such services provided  
13 within the municipality, which shall be determined in  
14 accordance with the following provisions:

15 a. Any charge with respect to a channel termination  
16 point located within such municipality;

17 b. Any charge for the use of a channel between two  
18 channel termination points located in such municipality; and

19 c. Where channel termination points are located both  
20 within and outside of the municipality:

21 (I) If any segment between two such channel  
22 termination points is separately billed, 50 percent of such  
23 charge; and

24 (II) If any segment of the circuit is not separately  
25 billed, an amount equal to the total charge for such circuit  
26 multiplied by a fraction, the numerator of which is the number  
27 of channel termination points within such municipality and the  
28 denominator of which is the total number of channel  
29 termination points of the circuit.

30 (b)1. Except as otherwise provided in this section,  
31 the tax imposed by any county under subsection (1) shall be on

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1 all communications services subject to tax under s. 202.12 or  
2 gross receipts tax under chapter 203 which:  
3       a. Originate or terminate in this state; and  
4       b. Are charged to a service address in the  
5 unincorporated area of the county.  
6       2. With respect to private communications services,  
7 the tax shall be on the sales price of such services provided  
8 within the unincorporated area of the county, which shall be  
9 determined in accordance with the following provisions:  
10       a. Any charge with respect to a channel termination  
11 point located within the unincorporated area of such county;  
12       b. Any charge for the use of a channel between two  
13 channel termination points located in the unincorporated area  
14 of such county; and  
15       c. Where channel termination points are located both  
16 within and outside of the unincorporated area of such county:  
17       (I) If any segment between two such channel  
18 termination points is separately billed, 50 percent of such  
19 charge; and  
20       (II) If any segment of the circuit is not separately  
21 billed, an amount equal to the total charge for such circuit  
22 multiplied by a fraction, the numerator of which is the number  
23 of channel termination points within the unincorporated area  
24 of such county and the denominator of which is the total  
25 number of channel termination points of the circuit.  
26       (5) In addition to the communications services taxes  
27 authorized by subsection (1), a discretionary sales surtax  
28 that a county or school board has levied under s. 212.055 is  
29 imposed as a local communications services tax under this  
30 section, and the rate shall be determined in accordance with  
31 s. 202.20(3).

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1 (a) Except as otherwise provided in this subsection,  
2 each such tax rate shall be applied, in addition to the other  
3 tax rates applied under this chapter, to communications  
4 services subject to tax under s. 202.12 or gross receipts tax  
5 under chapter 203 which:

- 6 1. Originate or terminate in this state; and
- 7 2. Are charged to a service address in the county.

8 (b) With respect to private communications services,  
9 the tax shall be on the sales price of such services provided  
10 within the county, which shall be determined in accordance  
11 with the following provisions:

12 1. Any charge with respect to a channel termination  
13 point located within such county;

14 2. Any charge for the use of a channel between two  
15 channel termination points located in such county; and

16 3. Where channel termination points are located both  
17 within and outside of such county:

18 a. If any segment between two such channel termination  
19 points is separately billed, 50 percent of such charge; and

20 b. If any segment of the circuit is not separately  
21 billed, an amount equal to the total charge for such circuit  
22 multiplied by a fraction, the numerator of which is the number  
23 of channel termination points within such county and the  
24 denominator of which is the total number of channel  
25 termination points of the circuit.

26 Section 6. Subsection (6) of section 212.20, Florida  
27 Statutes, is amended to read:

28 212.20 Funds collected, disposition; additional powers  
29 of department; operational expense; refund of taxes  
30 adjudicated unconstitutionally collected.--

31 (6) Distribution of all proceeds under this chapter

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1 and s. 202.18(1)(b), (2)(b)1., and (2)(c)1.~~s. 202.18(1)(b)~~  
2 ~~and (2)(b)~~ shall be as follows:

3 (a) Proceeds from the convention development taxes  
4 authorized under s. 212.0305 shall be reallocated to the  
5 Convention Development Tax Clearing Trust Fund.

6 (b) Proceeds from discretionary sales surtaxes imposed  
7 pursuant to ss. 212.054 and 212.055 shall be reallocated to  
8 the Discretionary Sales Surtax Clearing Trust Fund.

9 (c) Proceeds from the fees imposed under ss.  
10 212.05(1)(i)3. and 212.18(3) shall remain with the General  
11 Revenue Fund.

12 (d) The proceeds of all other taxes and fees imposed  
13 pursuant to this chapter or remitted pursuant to s.  
14 202.18(1)(b), (2)(b)1., and (2)(c)1.~~s. 202.18(1)(b) and~~  
15 ~~(2)(b)~~ shall be distributed as follows:

16 1. In any fiscal year, the greater of \$500 million,  
17 minus an amount equal to 4.6 percent of the proceeds of the  
18 taxes collected pursuant to chapter 201, or 5 percent of all  
19 other taxes and fees imposed pursuant to this chapter or  
20 remitted pursuant to s. 202.18(1)(b), (2)(b)1., and (2)(c)1.  
21 ~~s. 202.18(1)(b) and (2)(b)~~ shall be deposited in monthly  
22 installments into the General Revenue Fund.

23 2. Two-tenths of one percent shall be transferred to  
24 the Solid Waste Management Trust Fund.

25 3. After the distribution under subparagraphs 1. and  
26 2., 9.653 percent of the amount remitted by a sales tax dealer  
27 located within a participating county pursuant to s. 218.61  
28 shall be transferred into the Local Government Half-cent Sales  
29 Tax Clearing Trust Fund.

30 4. After the distribution under subparagraphs 1., 2.,  
31 and 3., 0.065 percent shall be transferred to the Local

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1 Government Half-cent Sales Tax Clearing Trust Fund and  
2 distributed pursuant to s. 218.65.

3           5. For proceeds received after July 1, 2000, and after  
4 the distributions under subparagraphs 1., 2., 3., and 4., 2.25  
5 percent of the available proceeds pursuant to this paragraph  
6 shall be transferred monthly to the Revenue Sharing Trust Fund  
7 for Counties pursuant to s. 218.215.

8           6. For proceeds received after July 1, 2000, and after  
9 the distributions under subparagraphs 1., 2., 3., and 4.,  
10 1.0715 percent of the available proceeds pursuant to this  
11 paragraph shall be transferred monthly to the Revenue Sharing  
12 Trust Fund for Municipalities pursuant to s. 218.215. If the  
13 total revenue to be distributed pursuant to this subparagraph  
14 is at least as great as the amount due from the Revenue  
15 Sharing Trust Fund for Municipalities and the Municipal  
16 Financial Assistance Trust Fund in state fiscal year  
17 1999-2000, no municipality shall receive less than the amount  
18 due from the Revenue Sharing Trust Fund for Municipalities and  
19 the Municipal Financial Assistance Trust Fund in state fiscal  
20 year 1999-2000. If the total proceeds to be distributed are  
21 less than the amount received in combination from the Revenue  
22 Sharing Trust Fund for Municipalities and the Municipal  
23 Financial Assistance Trust Fund in state fiscal year  
24 1999-2000, each municipality shall receive an amount  
25 proportionate to the amount it was due in state fiscal year  
26 1999-2000.

27           7. Of the remaining proceeds:

28           a. Beginning July 1, 2000, and in each fiscal year  
29 thereafter, the sum of \$29,915,500 shall be divided into as  
30 many equal parts as there are counties in the state, and one  
31 part shall be distributed to each county. The distribution

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1 among the several counties shall begin each fiscal year on or  
2 before January 5th and shall continue monthly for a total of 4  
3 months. If a local or special law required that any moneys  
4 accruing to a county in fiscal year 1999-2000 under the  
5 then-existing provisions of s. 550.135 be paid directly to the  
6 district school board, special district, or a municipal  
7 government, such payment shall continue until such time that  
8 the local or special law is amended or repealed. The state  
9 covenants with holders of bonds or other instruments of  
10 indebtedness issued by local governments, special districts,  
11 or district school boards prior to July 1, 2000, that it is  
12 not the intent of this subparagraph to adversely affect the  
13 rights of those holders or relieve local governments, special  
14 districts, or district school boards of the duty to meet their  
15 obligations as a result of previous pledges or assignments or  
16 trusts entered into which obligated funds received from the  
17 distribution to county governments under then-existing s.  
18 550.135. This distribution specifically is in lieu of funds  
19 distributed under s. 550.135 prior to July 1, 2000.

20       b. The department shall distribute \$166,667 monthly  
21 pursuant to s. 288.1162 to each applicant that has been  
22 certified as a "facility for a new professional sports  
23 franchise" or a "facility for a retained professional sports  
24 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be  
25 distributed monthly by the department to each applicant that  
26 has been certified as a "facility for a retained spring  
27 training franchise" pursuant to s. 288.1162; however, not more  
28 than \$208,335 may be distributed monthly in the aggregate to  
29 all certified facilities for a retained spring training  
30 franchise. Distributions shall begin 60 days following such  
31 certification and shall continue for not more than 30 years.

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1 Nothing contained in this paragraph shall be construed to  
2 allow an applicant certified pursuant to s. 288.1162 to  
3 receive more in distributions than actually expended by the  
4 applicant for the public purposes provided for in s.  
5 288.1162(6). However, a certified applicant is entitled to  
6 receive distributions up to the maximum amount allowable and  
7 undistributed under this section for additional renovations  
8 and improvements to the facility for the franchise without  
9 additional certification.

10 c. Beginning 30 days after notice by the Office of  
11 Tourism, Trade, and Economic Development to the Department of  
12 Revenue that an applicant has been certified as the  
13 professional golf hall of fame pursuant to s. 288.1168 and is  
14 open to the public, \$166,667 shall be distributed monthly, for  
15 up to 300 months, to the applicant.

16 d. Beginning 30 days after notice by the Office of  
17 Tourism, Trade, and Economic Development to the Department of  
18 Revenue that the applicant has been certified as the  
19 International Game Fish Association World Center facility  
20 pursuant to s. 288.1169, and the facility is open to the  
21 public, \$83,333 shall be distributed monthly, for up to 168  
22 months, to the applicant. This distribution is subject to  
23 reduction pursuant to s. 288.1169. A lump sum payment of  
24 \$999,996 shall be made, after certification and before July 1,  
25 2000.

26 8. All other proceeds shall remain with the General  
27 Revenue Fund.

28 Section 7. Except as otherwise expressly provided in  
29 this act, this act shall take effect July 1, 2002.

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1 ===== T I T L E A M E N D M E N T =====  
2 And the title is amended as follows:  
3       On page 1, lines 2 through 15  
4 remove: all said lines  
5  
6 and insert:  
7       An act relating to taxation of communications  
8       services; amending s. 202.12, F.S.; providing  
9       for a schedule of taxation of the sales of  
10       certain satellite services and cable services;  
11       amending s. 202.125, F.S.; including cable  
12       service within an exemption from the  
13       communications services tax imposed by s.  
14       202.12; amending s. 202.18, F.S.; revising the  
15       distribution of the tax on the sale of cable  
16       services, to conform; revising the distribution  
17       of the tax on the sale of direct-to-home  
18       satellite services, to conform; conforming  
19       references; amending s. 202.19, F.S.;  
20       conforming references; amending s. 212.20,  
21       F.S.; conforming references; providing  
22       effective dates.  
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