



HB 1897

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1 A bill to be entitled

2 An act relating to the taxable price of bundled
3 transactions; amending s. 202.11, F.S.; revising a
4 definition; creating s. 202.165, F.S.; providing a
5 definition; specifying the taxable price of certain
6 bundled transactions; providing the Department of Revenue
7 enforcement powers and rulemaking authority; specifying
8 duties and responsibilities of dealers and the department
9 in regard to customers; providing an effective date.

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

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13 Section 1. Paragraph (a) of subsection (15) of section
14 202.11, Florida Statutes, is amended to read:

15 202.11 Definitions.--As used in this chapter:

16 (15) "Service address" means:

17 (a) Except as otherwise provided in this section, the
18 location of the communications equipment from which
19 communications services originate or at which communications
20 services are received by the customer. ~~If the location of such
21 equipment cannot be determined as part of the billing process,
22 as in the case of third-number and calling-card calls and
23 similar services, the term means the location determined by the
24 dealer based on the customer's telephone number, the customer's
25 mailing address to which bills are sent by the dealer, or
26 another street address provided by the customer.~~ In the case of
27 a communications service paid through a credit or payment
28 mechanism that does not relate to a service address, such as a
29 bank, travel, debit, or credit card, and in the case of third-
30 number and calling-card calls, the service address is the



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31 address of the central office, as determined by the area code
32 and the first three digits of the seven-digit originating
33 telephone number.

34 Section 2. Section 202.165, Florida Statutes, is created
35 to read:

36 202.165 Taxable price of bundled transactions.--

37 (1) For purposes of this section, a "bundled transaction"
38 means a transaction consisting of distinct and identifiable
39 properties or services which are sold for a single nonitemized
40 sales price but which are treated differently for tax purposes.
41 The provisions of this section shall not apply to services
42 defined in s. 202.11(3)(h).

43 (2) In the case of a bundled transaction that includes
44 communications services:

45 (a) If the sales price is attributable to properties or
46 services that are taxable and properties or services that are
47 nontaxable, the portion of the sales price attributable to the
48 nontaxable properties or services shall be subject to tax unless
49 the dealer reasonably identifies and allocates such portion from
50 its books and records kept in the regular course of business for
51 other purposes.

52 (b) If the sales price is attributable to properties or
53 services that are taxable at different rates, the total sales
54 price shall be treated as attributable to the properties or
55 services taxable at the highest rate unless the selling dealer
56 reasonably identifies and allocates the portion of the sales
57 price attributable to the properties or services taxable at a
58 lower rate from its books and records kept in the regular course
59 of business for other purposes.



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60 (3) If upon audit the department determines that the
61 selling dealer did not reasonably identify and allocate the
62 portions of the nonitemized sales price for purposes of
63 collecting and remitting tax on those portions of the
64 nonitemized sales price subject to tax under the law of this
65 state, or taxable at varying rates, the department may
66 redetermine the allocation to correctly reflect the proper
67 amount of tax due on the different properties or services and
68 determine and assess any resulting deficiency.

69 (4) The department is granted specific rulemaking
70 authority to adopt rules relating to the determination of
71 whether the portions of the single nonitemized sales price have
72 been reasonably identified and allocated based on books and
73 records and the types of books and records used to support such
74 identification. Such books and records shall include, but not be
75 limited to, items such as the dealer's general ledger; price
76 lists; invoices, customer bills, and cost records; tariffs and
77 other regulatory filings; and rules or orders of regulatory
78 authorities.

79 (5) Upon written request from a customer currently under
80 audit under chapter 202 and, if applicable, chapter 212, the
81 selling dealer shall provide a written explanation of how the
82 sales price was apportioned to services and property involved in
83 the transaction for purposes of calculating the tax due. The
84 explanation must be provided within 60 days after receipt of the
85 customer request.

86 (6) This section does not create any customer right to
87 require that a selling dealer or the department identify the
88 different portions of bundled transactions to minimize the
89 customer's payment of tax.



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Section 3. This act shall take effect July 1, 2004.

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