

1 A bill to be entitled

2 An act relating to the tax on sales, use, and other
3 transactions; amending s. 212.02, F.S.; redefining the
4 terms "lease," "let," "rental," "sales price," and
5 "tangible personal property" and defining the terms
6 "agent," "seller," "certified service provider," "direct
7 mail," "prewritten computer software," and "delivery
8 charges" for purposes of sales and use taxes; providing
9 applicability; amending s. 212.05, F.S.; deleting
10 provisions relating to the rental or lease of motor
11 vehicles; providing for determination of the location of
12 the sale or recharge of prepaid calling arrangements;
13 amending s. 212.054, F.S.; providing the time for applying
14 changes in local option tax rates; providing guidelines
15 for determining the situs of certain transactions;
16 providing for notice of a change in a local option sales
17 tax rate; providing for applicability of s. 202.22(2),
18 F.S., relating to determination of local tax situs, for
19 the purpose of providing and maintaining a database of
20 sales and use tax rates for local jurisdictions; amending
21 s. 212.06, F.S.; defining terms; providing general rules
22 for determining the location of transactions involving the
23 retail sale of tangible personal property, digital goods,
24 or services and for the lease or rental of tangible
25 personal property; requiring certain business purchasers
26 to obtain multiple points of use exemption forms;
27 providing for use of such forms; requiring certain
28 purchasers of direct mail to obtain a direct mail form;
29 providing for the use of such form; amending s. 212.08,

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30 F.S., relating to exemptions from the sales and use tax;
31 defining and redefining terms used with respect to the
32 exemption for general groceries; defining and redefining
33 terms used with respect to the exemption for medical
34 products and supplies; revising that exemption; amending
35 s. 212.095, F.S.; revising provisions relating to refunds;
36 creating s. 212.094, F.S.; providing that a purchaser
37 seeking a refund or credit under ch. 212, F.S., must
38 submit a written request for the refund or credit;
39 providing a time period within which the dealer shall
40 respond to the written request; amending s. 212.17, F.S.;
41 prescribing additional guidelines and procedures with
42 respect to dealer credits for taxes paid on worthless
43 accounts; creating s. 213.052, F.S.; providing for notice
44 of state sales or use tax rate changes; creating s.
45 213.0521, F.S.; providing the effective date for state
46 sales and use tax rate changes; amending s. 213.21, F.S.;
47 providing for amnesty to certain sellers for uncollected
48 or unpaid sales and use taxes; amending s. 213.256, F.S.,
49 relating to simplified sales and use tax administration;
50 defining terms; providing that authority to administer the
51 Streamlined Sales and Use Tax Agreement rests with a
52 governing board comprised of representatives of member
53 states; providing for continuing effect of the agreement;
54 providing for annual recertification by member states;
55 creating s. 213.2567, F.S.; providing for the registration
56 of sellers, the certification of a person as a certified
57 service provider, and the certification of a software
58 program as a certified automated system by the governing

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59 board under the Streamlined Sales and Use Tax Agreement;
 60 amending s. 212.055, 212.07, 212.15, and 212.183, F.S.;
 61 conforming cross references; repealing s. 212.0596(6),
 62 F.S., relating to the exemption from collecting and
 63 remitting any local option surtax for certain dealers who
 64 make mail order sales; declaring legislative intent;
 65 providing for the adoption of emergency rules; providing
 66 an effective date.

67

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

69

70 Section 1. Paragraph (g) of subsection (10) and
 71 subsections (16) and (19) of section 212.02, Florida Statutes,
 72 are amended, and subsections (35), (36), (37), (38), (39), and
 73 (40) are added to said section, to read:

74 212.02 Definitions.--The following terms and phrases when
 75 used in this chapter have the meanings ascribed to them in this
 76 section, except where the context clearly indicates a different
 77 meaning:

78 (10) "Lease," "let," or "rental" means leasing or renting
 79 of living quarters or sleeping or housekeeping accommodations in
 80 hotels, apartment houses, roominghouses, tourist or trailer
 81 camps and real property, the same being defined as follows:

82 (g)1. "Lease," "let," or "rental" also means any transfer
 83 of possession or control of tangible personal property for a
 84 fixed or indeterminate term for consideration. A clause for a
 85 future option to purchase the equipment or to extend the
 86 agreement does not preclude an agreement from being a lease or
 87 rental. This definition shall be used for sales and use tax

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88 purposes regardless of whether a transaction is characterized as
 89 a lease or rental under generally accepted accounting
 90 principles, the Internal Revenue Code, the Uniform Commercial
 91 Code, or other provisions of federal, state, or local law. This
 92 definition includes agreements covering motor vehicles and
 93 trailers when the amount of consideration may be increased or
 94 decreased by reference to the amount realized upon sale or
 95 disposition of the property as defined in 26 U.S.C. s.
 96 7701(h)(1). This definition does not include:

97 a. A transfer of possession or control of property under a
 98 security agreement or deferred payment plan that requires the
 99 transfer of title upon completion of the required payments;

100 b. A transfer of possession or control of property under
 101 an agreement that requires the transfer of title upon completion
 102 of required payments and payment of an option price that does
 103 not exceed the greater of \$100 or 1 percent of the total
 104 required payments; or

105 c. Providing tangible personal property along with an
 106 operator for a fixed or indeterminate period of time. A
 107 condition of this exclusion is that the operator is necessary
 108 for the equipment to perform as designed. For the purpose of
 109 this sub-subparagraph, an operator must do more than maintain,
 110 inspect, or set up the tangible personal property ~~the leasing or~~
 111 ~~rental of tangible personal property and the possession or use~~
 112 ~~thereof by the lessee or rentee for a consideration, without~~
 113 ~~transfer of the title of such property, except as expressly~~
 114 ~~provided to the contrary herein.~~

115 2. The term "lease," "let," or "rental" does not mean
 116 hourly, daily, or mileage charges, to the extent that such

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117 charges are subject to the jurisdiction of the United States
 118 Interstate Commerce Commission, when such charges are paid by
 119 reason of the presence of railroad cars owned by another on the
 120 tracks of the taxpayer, or charges made pursuant to car service
 121 agreements. The term "lease," "let," "rental," or "license" does
 122 not include payments made to an owner of high-voltage bulk
 123 transmission facilities in connection with the possession or
 124 control of such facilities by a regional transmission
 125 organization, independent system operator, or similar entity
 126 under the jurisdiction of the Federal Energy Regulatory
 127 Commission. However, where two taxpayers, in connection with the
 128 interchange of facilities, rent or lease property, each to the
 129 other, for use in providing or furnishing any of the services
 130 mentioned in s. 166.231, the term "lease or rental" means only
 131 the net amount of rental involved.

132 (16)(a) "Sales price" applies to the measure subject to
 133 sales tax and means the total amount of consideration, including
 134 cash, credit, property, and services, for which personal
 135 property or services are sold, leased, or rented, valued in
 136 money, whether received in money or otherwise, without any
 137 deduction for the following:

- 138 1. The seller's cost of the property sold;
- 139 2. The cost of materials used, labor or service cost,
 140 interest, losses, all costs of transportation to the seller, all
 141 taxes imposed on the seller, and any other expense of the
 142 seller;
- 143 3. Charges by the seller for any services necessary to
 144 complete the sale, other than delivery and installation charges;
- 145 4. Delivery charges; and

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146 5. Installation charges.
 147 (b) The term "sales price" does not include;
 148 1. Trade-ins allowed and taken at the time of sale if the
 149 amount is separately stated on the invoice, bill of sale, or
 150 similar document given to the purchaser;
 151 2. Discounts, including cash, term, or coupons, which are
 152 not reimbursed by a third party, which are allowed by a seller,
 153 and which are taken by a purchaser at the time of sale;
 154 3. Interest, financing, and carrying charges from credit
 155 extended on the sale of personal property or services, if the
 156 amount is separately stated on the invoice, bill of sale, or
 157 similar document given to the purchaser; and
 158 4. Any taxes legally imposed directly on the consumer
 159 which are separately stated on the invoice, bill of sale, or
 160 similar document given to the purchaser ~~means the total amount~~
 161 ~~paid for tangible personal property, including any services that~~
 162 ~~are a part of the sale, valued in money, whether paid in money~~
 163 ~~or otherwise, and includes any amount for which credit is given~~
 164 ~~to the purchaser by the seller, without any deduction therefrom~~
 165 ~~on account of the cost of the property sold, the cost of~~
 166 ~~materials used, labor or service cost, interest charged, losses,~~
 167 ~~or any other expense whatsoever. "Sales price" also includes the~~
 168 ~~consideration for a transaction which requires both labor and~~
 169 ~~material to alter, remodel, maintain, adjust, or repair tangible~~
 170 ~~personal property. Trade-ins or discounts allowed and taken at~~
 171 ~~the time of sale shall not be included within the purview of~~
 172 ~~this subsection. "Sales price" also includes the full face value~~
 173 ~~of any coupon used by a purchaser to reduce the price paid to a~~
 174 ~~retailer for an item of tangible personal property; where the~~

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175 ~~retailer will be reimbursed for such coupon, in whole or in~~
 176 ~~part, by the manufacturer of the item of tangible personal~~
 177 ~~property; or whenever it is not practicable for the retailer to~~
 178 ~~determine, at the time of sale, the extent to which~~
 179 ~~reimbursement for the coupon will be made. The term "sales~~
 180 ~~price" does not include federal excise taxes imposed upon the~~
 181 ~~retailer on the sale of tangible personal property. The term~~
 182 ~~"sales price" does include federal manufacturers' excise taxes,~~
 183 ~~even if the federal tax is listed as a separate item on the~~
 184 ~~invoice.~~

185 (19) "Tangible personal property" means and includes
 186 personal property which may be seen, weighed, measured, or
 187 touched or is in any manner perceptible to the senses, including
 188 electric power or energy, water, gas, steam, prewritten computer
 189 software, boats, motor vehicles and mobile homes as defined in
 190 s. 320.01(1) and (2), aircraft as defined in s. 330.27, and all
 191 other types of vehicles. The term "tangible personal property"
 192 does not include stocks, bonds, notes, insurance, or other
 193 obligations or securities; intangibles as defined by the
 194 intangible tax law of the state; or pari-mutuel tickets sold or
 195 issued under the racing laws of the state.

196 (35) "Agent" means a person appointed by a principal or
 197 authorized to act for the principal in a transaction involving
 198 the sale of an item of tangible personal property. The term also
 199 means a person appointed by a seller to represent the seller
 200 before the states that are signatories to the Streamlined Sales
 201 and Use Tax Agreement.

202 (36) "Seller" means any person making sales, leases, or
 203 rentals of personal property or services.

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204 (37) "Certified service provider" means an agent certified
 205 under the Streamlined Sales and Use Tax Agreement to perform all
 206 of the seller's sales tax functions, other than the seller's
 207 obligation to remit tax on its own purchases.

208 (38) "Direct mail" means printed material delivered or
 209 distributed by United States mail or other delivery service to a
 210 mass audience or to addressees on a mailing list provided by the
 211 purchaser or at the direction of the purchaser when the cost of
 212 the items is not billed directly to the recipients. The term
 213 includes tangible personal property supplied directly or
 214 indirectly by the purchaser to the direct mail seller for
 215 inclusion in the package containing the printed material. The
 216 term does not include multiple items of printed material
 217 delivered to a single address.

218 (39) "Prewritten computer software" means computer
 219 software, including prewritten upgrades, which is not designed
 220 and developed by the author or other creator to the
 221 specifications of a specific purchaser. The combining of two or
 222 more "prewritten computer software" programs or prewritten
 223 portions thereof does not cause the combination to be other than
 224 "prewritten computer software." The term includes software
 225 designed and developed by the author or other creator to the
 226 specifications of a specific purchaser when it is sold to a
 227 person other than that purchaser. When a person modifies or
 228 enhances computer software of which the person is not the author
 229 or creator, the person shall be deemed to be the author or
 230 creator only of such person's modifications or enhancements.
 231 Prewritten computer software, or a prewritten portion thereof,
 232 that is modified or enhanced to any degree, when such

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233 modification or enhancement is designed and developed to the
 234 specifications of a specific purchaser, remains "prewritten
 235 computer software"; however, when there is a reasonable,
 236 separately stated charge or an invoice or other statement of the
 237 price given to the purchaser for such modification or
 238 enhancement, such modification or enhancement does not
 239 constitute "prewritten computer software."

240 (40) "Delivery charges" means charges by the seller of
 241 personal property or services for preparation and delivery to a
 242 location designated by the purchaser of personal property or
 243 services, including, but not limited to, transportation,
 244 shipping, postage, handling, crating, and packing. The term does
 245 not include the charges for delivery of "direct mail" as defined
 246 by this section if the charges are separately stated on an
 247 invoice or similar billing document given to the purchaser.

248 Section 2. The amendment of the terms "lease," "let," and
 249 "rental" in s. 212.02, Florida Statutes, made by this act
 250 applies prospectively only, from January 1, 2005, and does not
 251 apply retroactively to leases or rentals existing before that
 252 date.

253 Section 3. Paragraphs (a), (c), and (e) of subsection (1)
 254 of section 212.05, Florida Statutes, are amended to read:

255 212.05 Sales, storage, use tax.--It is hereby declared to
 256 be the legislative intent that every person is exercising a
 257 taxable privilege who engages in the business of selling
 258 tangible personal property at retail in this state, including
 259 the business of making mail order sales, or who rents or
 260 furnishes any of the things or services taxable under this
 261 chapter, or who stores for use or consumption in this state any

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262 item or article of tangible personal property as defined herein
 263 and who leases or rents such property within the state.

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

267 (a)1.a. Except as otherwise provided by law, at the rate
 268 of 6 percent of the sales price of each item or article of
 269 tangible personal property when sold at retail in this state,
 270 computed on each taxable sale for the purpose of remitting the
 271 amount of tax due the state, and including each and every retail
 272 sale.

273 b. Each occasional or isolated sale of an aircraft, boat,
 274 mobile home, or motor vehicle of a class or type which is
 275 required to be registered, licensed, titled, or documented in
 276 this state or by the United States Government shall be subject
 277 to tax at the rate provided in this paragraph. The department
 278 shall by rule adopt any nationally recognized publication for
 279 valuation of used motor vehicles as the reference price list for
 280 any used motor vehicle which is required to be licensed pursuant
 281 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
 282 party to an occasional or isolated sale of such a vehicle
 283 reports to the tax collector a sales price which is less than 80
 284 percent of the average loan price for the specified model and
 285 year of such vehicle as listed in the most recent reference
 286 price list, the tax levied under this paragraph shall be
 287 computed by the department on such average loan price unless the
 288 parties to the sale have provided to the tax collector an
 289 affidavit signed by each party, or other substantial proof,
 290 stating the actual sales price. Any party to such sale who

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291 reports a sales price less than the actual sales price is guilty
 292 of a misdemeanor of the first degree, punishable as provided in
 293 s. 775.082 or s. 775.083. The department shall collect or
 294 attempt to collect from such party any delinquent sales taxes.
 295 In addition, such party shall pay any tax due and any penalty
 296 and interest assessed plus a penalty equal to twice the amount
 297 of the additional tax owed. Notwithstanding any other provision
 298 of law, the Department of Revenue may waive or compromise any
 299 penalty imposed pursuant to this subparagraph.

300 2. This paragraph does not apply to the sale of a boat or
 301 airplane by or through a registered dealer under this chapter to
 302 a purchaser who, at the time of taking delivery, is a
 303 nonresident of this state, does not make his or her permanent
 304 place of abode in this state, and is not engaged in carrying on
 305 in this state any employment, trade, business, or profession in
 306 which the boat will be used in this state, or is a corporation
 307 none of the officers or directors of which is a resident of, or
 308 makes his or her permanent place of abode in, this state, or is
 309 a noncorporate entity that has no individual vested with
 310 authority to participate in the management, direction, or
 311 control of the entity's affairs who is a resident of, or makes
 312 his or her permanent abode in, this state. For purposes of this
 313 exemption, either a registered dealer acting on his or her own
 314 behalf as seller, a registered dealer acting as broker on behalf
 315 of a seller, or a registered dealer acting as broker on behalf
 316 of the purchaser may be deemed to be the selling dealer. This
 317 exemption shall not be allowed unless:

318 a. The purchaser removes a qualifying boat, as described
 319 in sub-subparagraph f., from the state within 90 days after the

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320 date of purchase or the purchaser removes a nonqualifying boat
321 or an airplane from this state within 10 days after the date of
322 purchase or, when the boat or airplane is repaired or altered,
323 within 20 days after completion of the repairs or alterations;

324 b. The purchaser, within 30 days from the date of
325 departure, shall provide the department with written proof that
326 the purchaser licensed, registered, titled, or documented the
327 boat or airplane outside the state. If such written proof is
328 unavailable, within 30 days the purchaser shall provide proof
329 that the purchaser applied for such license, title,
330 registration, or documentation. The purchaser shall forward to
331 the department proof of title, license, registration, or
332 documentation upon receipt.

333 c. The purchaser, within 10 days of removing the boat or
334 airplane from Florida, shall furnish the department with proof
335 of removal in the form of receipts for fuel, dockage, slippage,
336 tie-down, or hangaring from outside of Florida. The information
337 so provided must clearly and specifically identify the boat or
338 aircraft;

339 d. The selling dealer, within 5 days of the date of sale,
340 shall provide to the department a copy of the sales invoice,
341 closing statement, bills of sale, and the original affidavit
342 signed by the purchaser attesting that he or she has read the
343 provisions of this section;

344 e. The seller makes a copy of the affidavit a part of his
345 or her record for as long as required by s. 213.35; and

346 f. Unless the nonresident purchaser of a boat of 5 net
347 tons of admeasurement or larger intends to remove the boat from
348 this state within 10 days after the date of purchase or when the

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349 boat is repaired or altered, within 20 days after completion of
 350 the repairs or alterations, the nonresident purchaser shall
 351 apply to the selling dealer for a decal which authorizes 90 days
 352 after the date of purchase for removal of the boat. The
 353 department is authorized to issue decals in advance to dealers.
 354 The number of decals issued in advance to a dealer shall be
 355 consistent with the volume of the dealer's past sales of boats
 356 which qualify under this sub-subparagraph. The selling dealer or
 357 his or her agent shall mark and affix the decals to qualifying
 358 boats in the manner prescribed by the department, prior to
 359 delivery of the boat.

360 (I) The department is hereby authorized to charge dealers
 361 a fee sufficient to recover the costs of decals issued.

362 (II) The proceeds from the sale of decals will be
 363 deposited into the administrative trust fund.

364 (III) Decals shall display information to identify the
 365 boat as a qualifying boat under this sub-subparagraph,
 366 including, but not limited to, the decal's date of expiration.

367 (IV) The department is authorized to require dealers who
 368 purchase decals to file reports with the department and may
 369 prescribe all necessary records by rule. All such records are
 370 subject to inspection by the department.

371 (V) Any dealer or his or her agent who issues a decal
 372 falsely, fails to affix a decal, mismarks the expiration date of
 373 a decal, or fails to properly account for decals will be
 374 considered prima facie to have committed a fraudulent act to
 375 evade the tax and will be liable for payment of the tax plus a
 376 mandatory penalty of 200 percent of the tax, and shall be liable
 377 for fine and punishment as provided by law for a conviction of a

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378 misdemeanor of the first degree, as provided in s. 775.082 or s.
 379 775.083.

380 (VI) Any nonresident purchaser of a boat who removes a
 381 decal prior to permanently removing the boat from the state, or
 382 defaces, changes, modifies, or alters a decal in a manner
 383 affecting its expiration date prior to its expiration, or who
 384 causes or allows the same to be done by another, will be
 385 considered prima facie to have committed a fraudulent act to
 386 evade the tax and will be liable for payment of the tax plus a
 387 mandatory penalty of 200 percent of the tax, and shall be liable
 388 for fine and punishment as provided by law for a conviction of a
 389 misdemeanor of the first degree, as provided in s. 775.082 or s.
 390 775.083.

391 (VII) The department is authorized to adopt rules
 392 necessary to administer and enforce this subparagraph and to
 393 publish the necessary forms and instructions.

394 (VIII) The department is hereby authorized to adopt
 395 emergency rules pursuant to s. 120.54(4) to administer and
 396 enforce the provisions of this subparagraph.

397
 398 If the purchaser fails to remove the qualifying boat from this
 399 state within 90 days after purchase or a nonqualifying boat or
 400 an airplane from this state within 10 days after purchase or,
 401 when the boat or airplane is repaired or altered, within 20 days
 402 after completion of such repairs or alterations, or permits the
 403 boat or airplane to return to this state within 6 months from
 404 the date of departure, or if the purchaser fails to furnish the
 405 department with any of the documentation required by this
 406 subparagraph within the prescribed time period, the purchaser

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407 shall be liable for use tax on the cost price of the boat or
 408 airplane and, in addition thereto, payment of a penalty to the
 409 Department of Revenue equal to the tax payable. This penalty
 410 shall be in lieu of the penalty imposed by s. 212.12(2) and is
 411 mandatory and shall not be waived by the department. The 90-day
 412 period following the sale of a qualifying boat tax exempt to a
 413 nonresident may not be tolled for any reason. Notwithstanding
 414 other provisions of this paragraph to the contrary, an aircraft
 415 purchased in this state under the provisions of this paragraph
 416 may be returned to this state for repairs within 6 months after
 417 the date of its departure without being in violation of the law
 418 and without incurring liability for the payment of tax or
 419 penalty on the purchase price of the aircraft if the aircraft is
 420 removed from this state within 20 days after the completion of
 421 the repairs and if such removal can be demonstrated by invoices
 422 for fuel, tie-down, hangar charges issued by out-of-state
 423 vendors or suppliers, or similar documentation.

424 (c) At the rate of 6 percent of the gross proceeds derived
 425 from the lease or rental of tangible personal property, as
 426 defined herein; ~~however, the following special provisions apply~~
 427 ~~to the lease or rental of motor vehicles:~~

428 ~~1. When a motor vehicle is leased or rented for a period~~
 429 ~~of less than 12 months:~~

430 ~~a. If the motor vehicle is rented in Florida, the entire~~
 431 ~~amount of such rental is taxable, even if the vehicle is dropped~~
 432 ~~off in another state.~~

433 ~~b. If the motor vehicle is rented in another state and~~
 434 ~~dropped off in Florida, the rental is exempt from Florida tax.~~

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435 ~~2. Except as provided in subparagraph 3., for the lease or~~
 436 ~~rental of a motor vehicle for a period of not less than 12~~
 437 ~~months, sales tax is due on the lease or rental payments if the~~
 438 ~~vehicle is registered in this state; provided, however, that no~~
 439 ~~tax shall be due if the taxpayer documents use of the motor~~
 440 ~~vehicle outside this state and tax is being paid on the lease or~~
 441 ~~rental payments in another state.~~

442 ~~3. The tax imposed by this chapter does not apply to the~~
 443 ~~lease or rental of a commercial motor vehicle as defined in s.~~
 444 ~~316.003(66)(a) to one lessee or rentee for a period of not less~~
 445 ~~than 12 months when tax was paid on the purchase price of such~~
 446 ~~vehicle by the lessor. To the extent tax was paid with respect~~
 447 ~~to the purchase of such vehicle in another state, territory of~~
 448 ~~the United States, or the District of Columbia, the Florida tax~~
 449 ~~payable shall be reduced in accordance with the provisions of s.~~
 450 ~~212.06(7). This subparagraph shall only be available when the~~
 451 ~~lease or rental of such property is an established business or~~
 452 ~~part of an established business or the same is incidental or~~
 453 ~~germane to such business.~~

454 (e)1. At the rate of 6 percent on charges for:
 455 a. Prepaid calling arrangements. The tax on charges for
 456 prepaid calling arrangements shall be collected at the time of
 457 sale and remitted by the selling dealer.

458 (I) "Prepaid calling arrangement" means the separately
 459 stated retail sale by advance payment of communications services
 460 that consist exclusively of telephone calls originated by using
 461 an access number, authorization code, or other means that may be
 462 manually, electronically, or otherwise entered and that are sold

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463 in predetermined units or dollars whose number declines with use
 464 in a known amount.

465 (II) The sale or recharge of the prepaid calling
 466 arrangement is deemed to take place in accordance with paragraph
 467 212.06(3)(d). In the case of a sale of a mobile communications
 468 service that is a prepaid calling arrangement, the retail sale
 469 is sourced at ~~If the sale or recharge of the prepaid calling~~
 470 ~~arrangement does not take place at the dealer's place of~~
 471 ~~business, it shall be deemed to take place at the customer's~~
 472 ~~shipping address or, if no item is shipped, at the customer's~~
 473 ~~address or~~ the location associated with the customer's mobile
 474 telephone number.

475 (III) The sale or recharge of a prepaid calling
 476 arrangement shall be treated as a sale of tangible personal
 477 property for purposes of this chapter, whether or not a tangible
 478 item evidencing such arrangement is furnished to the purchaser,
 479 and such sale within this state subjects the selling dealer to
 480 the jurisdiction of this state for purposes of this subsection.

481 b. The installation of telecommunication and telegraphic
 482 equipment.

483 c. Electrical power or energy, except that the tax rate
 484 for charges for electrical power or energy is 7 percent.

485 2. The provisions of s. 212.17(3), regarding credit for
 486 tax paid on charges subsequently found to be worthless, shall be
 487 equally applicable to any tax paid under the provisions of this
 488 section on charges for prepaid calling arrangements,
 489 telecommunication or telegraph services, or electric power
 490 subsequently found to be uncollectible. The word "charges" in
 491 this paragraph does not include any excise or similar tax levied

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492 by the Federal Government, any political subdivision of the
 493 state, or any municipality upon the purchase, sale, or recharge
 494 of prepaid calling arrangements or upon the purchase or sale of
 495 telecommunication, television system program, or telegraph
 496 service or electric power, which tax is collected by the seller
 497 from the purchaser.

498 Section 4. Section 212.054, Florida Statutes, is amended
 499 to read:

500 212.054 Discretionary sales surtax; limitations,
 501 administration, and collection.--

502 (1) No general excise tax on sales shall be levied by the
 503 governing body of any county unless specifically authorized in
 504 s. 212.055. Any general excise tax on sales authorized pursuant
 505 to said section shall be administered and collected exclusively
 506 as provided in this section.

507 (2)(a) The tax imposed by the governing body of any county
 508 authorized to so levy pursuant to s. 212.055 shall be a
 509 discretionary surtax on all transactions occurring in the county
 510 which transactions are subject to the state tax imposed on
 511 sales, use, services, rentals, admissions, and other
 512 transactions by this chapter and communications services as
 513 defined for purposes of chapter 202. The surtax, if levied,
 514 shall be computed as the applicable rate or rates authorized
 515 pursuant to s. 212.055 times the amount of taxable sales and
 516 taxable purchases representing such transactions. If the surtax
 517 is levied on the sale of an item of tangible personal property
 518 or on the sale of a service, the surtax shall be computed by
 519 multiplying the rate imposed by the county within which the sale
 520 occurs by the amount of the taxable sale. The sale of an item of

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521 | tangible personal property or the sale of a service is not
 522 | subject to the surtax if the property, the service, or the
 523 | tangible personal property representing the service is delivered
 524 | within a county that does not impose a discretionary sales
 525 | surtax.

526 | (b) However:

527 | 1. The sales amount above \$5,000 on any item of tangible
 528 | personal property shall not be subject to the surtax. However,
 529 | charges for prepaid calling arrangements, as defined in s.
 530 | 212.05(1)(e)1.a., shall be subject to the surtax. For purposes
 531 | of administering the \$5,000 limitation on an item of tangible
 532 | personal property, if two or more taxable items of tangible
 533 | personal property are sold to the same purchaser at the same
 534 | time and, under generally accepted business practice or industry
 535 | standards or usage, are normally sold in bulk or are items that,
 536 | when assembled, comprise a working unit or part of a working
 537 | unit, such items must be considered a single item for purposes
 538 | of the \$5,000 limitation when supported by a charge ticket,
 539 | sales slip, invoice, or other tangible evidence of a single sale
 540 | or rental.

541 | 2. In the case of utility services covering a period
 542 | starting before and ending after the effective date of the
 543 | surtax, the rate shall apply as follows:

544 | a. In the case of a rate adoption or increase, the new
 545 | rate shall apply to the first billing period starting on or
 546 | after the effective date of the surtax or increase.

547 | b. In the case of a rate decrease or termination, the new
 548 | rate shall apply to bills rendered on or after the effective
 549 | date of the rate change ~~billed on or after the effective date of~~

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550 ~~any such surtax, the entire amount of the charge for utility~~
 551 ~~services shall be subject to the surtax. In the case of utility~~
 552 ~~services billed after the last day the surtax is in effect, the~~
 553 ~~entire amount of the charge on said items shall not be subject~~
 554 ~~to the surtax.~~

555
 556 "Utility service," as used in this section, does not include any
 557 communications services as defined in chapter 202.

558 3. In the case of written contracts which are signed prior
 559 to the effective date of any such surtax for the construction of
 560 improvements to real property or for remodeling of existing
 561 structures, the surtax shall be paid by the contractor
 562 responsible for the performance of the contract. However, the
 563 contractor may apply for one refund of any such surtax paid on
 564 materials necessary for the completion of the contract. Any
 565 application for refund shall be made no later than 15 months
 566 following initial imposition of the surtax in that county. The
 567 application for refund shall be in the manner prescribed by the
 568 department by rule. A complete application shall include proof
 569 of the written contract and of payment of the surtax. The
 570 application shall contain a sworn statement, signed by the
 571 applicant or its representative, attesting to the validity of
 572 the application. The department shall, within 30 days after
 573 approval of a complete application, certify to the county
 574 information necessary for issuance of a refund to the applicant.
 575 Counties are hereby authorized to issue refunds for this purpose
 576 and shall set aside from the proceeds of the surtax a sum
 577 sufficient to pay any refund lawfully due. Any person who
 578 fraudulently obtains or attempts to obtain a refund pursuant to

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579 this subparagraph, in addition to being liable for repayment of
 580 any refund fraudulently obtained plus a mandatory penalty of 100
 581 percent of the refund, is guilty of a felony of the third
 582 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 583 775.084.

584 4. In the case of any vessel, railroad, or motor vehicle
 585 common carrier entitled to partial exemption from tax imposed
 586 under this chapter pursuant to s. 212.08(4), (8), or (9), the
 587 basis for imposition of surtax shall be the same as provided in
 588 s. 212.08 and the ratio shall be applied each month to total
 589 purchases in this state of property qualified for proration
 590 which is delivered or sold in the taxing county to establish the
 591 portion used and consumed in intracounty movement and subject to
 592 surtax.

593 (3) For purposes of this section, a retail sale, lease, or
 594 rental of tangible personal property, a digital good, or a
 595 service shall be deemed to have occurred in a county imposing
 596 the surtax when the location where the sale is deemed to take
 597 place in accordance with s. 212.06(3) is located in a county
 598 that imposes a surtax.

599 (4)(3) For the purpose of this section, a transaction
 600 shall be deemed to have occurred in a county imposing the surtax
 601 when:

602 (a)1. Notwithstanding subsection (3), the retail sale that
 603 is a modular home or manufactured home that is not a mobile home
 604 includes an item of tangible personal property, a service, or
 605 tangible personal property representing a service, and the item
 606 of tangible personal property, the service, or the tangible
 607 personal property representing the service is delivered within

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608 ~~the county. If there is no reasonable evidence of delivery of a~~
 609 ~~service, the sale of a service is deemed to occur in the county~~
 610 ~~in which the purchaser accepts the bill of sale.~~

611 (b)2. Notwithstanding subsection (3), the retail sale,
 612 excluding lease or rental, of any motor vehicle that does not
 613 qualify as transportation equipment, as defined in s.
 614 212.06(3)(g), or the retail sale of a mobile home of a class or
 615 type which is required to be registered in this state or in any
 616 other state shall be deemed to have occurred only in the county
 617 identified as the residence address of the purchaser on the
 618 registration or title document for such property.

619 (c) The real property that is leased or rented is located
 620 in the county.

621 (d) The transient rental transaction occurs in the county.

622 (e)~~(b)~~ The event for which an admission is charged is
 623 located in the county.

624 (f) The coin-operated amusement or vending machine is
 625 located in the county.

626 (g) The florist taking the original order to sell tangible
 627 personal property is located in the county, notwithstanding any
 628 other provision of this section.

629 ~~(e) The consumer of utility services is located in the~~
 630 ~~county.~~

631 (h)~~(d)~~1. Notwithstanding subsection (3), the delivery
 632 derived from the retail sale, excluding lease or rental, of any
 633 aircraft that does not qualify as "transportation equipment" as
 634 defined in s. 212.06(3)(g) or of any boat of a class or type
 635 that is required to be registered, licensed, titled, or

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636 documented in this state or by the United States Government to a
 637 location in the county.

638 2. The user of any aircraft or boat of a class or type
 639 which is required to be registered, licensed, titled, or
 640 documented in this state or by the United States Government
 641 imported into the county for use, consumption, distribution, or
 642 storage to be used or consumed in the county is located in the
 643 county.

644 ~~3.2.~~ However, it shall be presumed that such items used
 645 outside the county for 6 months or longer before being imported
 646 into the county were not purchased for use in the county, except
 647 as provided in s. 212.06(7)~~(8)~~(b).

648 ~~4.3.~~ This paragraph does not apply to the use or
 649 consumption of items upon which a like tax of equal or greater
 650 amount has been lawfully imposed and paid outside the county.

651 ~~(i)(e)~~ The purchaser of any motor vehicle or mobile home
 652 of a class or type which is required to be registered in this
 653 state is a resident of the taxing county as determined by the
 654 address appearing on or to be reflected on the registration
 655 document for such property.

656 ~~(j)(f)~~1. Any motor vehicle or mobile home of a class or
 657 type which is required to be registered in this state is
 658 imported from another state into the taxing county by a user
 659 residing therein for the purpose of use, consumption,
 660 distribution, or storage in the taxing county.

661 2. However, it shall be presumed that such items used
 662 outside the taxing county for 6 months or longer before being
 663 imported into the county were not purchased for use in the
 664 county.

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665 ~~(g) The real property which is leased or rented is located~~
 666 ~~in the county.~~

667 ~~(h) The transient rental transaction occurs in the county.~~

668 ~~(i) The delivery of any aircraft or boat of a class or~~
 669 ~~type which is required to be registered, licensed, titled, or~~
 670 ~~documented in this state or by the United States Government is~~
 671 ~~to a location in the county. However, this paragraph does not~~
 672 ~~apply to the use or consumption of items upon which a like tax~~
 673 ~~of equal or greater amount has been lawfully imposed and paid~~
 674 ~~outside the county.~~

675 (k)(j) The dealer owing a use tax on purchases or leases
 676 is located in the county.

677 ~~(k) The delivery of tangible personal property other than~~
 678 ~~that described in paragraph (d), paragraph (e), or paragraph (f)~~
 679 ~~is made to a location outside the county, but the property is~~
 680 ~~brought into the county within 6 months after delivery, in which~~
 681 ~~event, the owner must pay the surtax as a use tax.~~

682 ~~(l) The coin-operated amusement or vending machine is~~
 683 ~~located in the county.~~

684 ~~(m) The florist taking the original order to sell tangible~~
 685 ~~personal property is located in the county, notwithstanding any~~
 686 ~~other provision of this section.~~

687 (5)(4)(a) The department shall administer, collect, and
 688 enforce the tax authorized under s. 212.055 pursuant to the same
 689 procedures used in the administration, collection, and
 690 enforcement of the general state sales tax imposed under the
 691 provisions of this chapter, except as provided in this section.
 692 The provisions of this chapter regarding interest and penalties
 693 on delinquent taxes shall apply to the surtax. Discretionary

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694 sales surtaxes shall not be included in the computation of
 695 estimated taxes pursuant to s. 212.11. Notwithstanding any other
 696 provision of law, a dealer need not separately state the amount
 697 of the surtax on the charge ticket, sales slip, invoice, or
 698 other tangible evidence of sale. For the purposes of this
 699 section and s. 212.055, the "proceeds" of any surtax means all
 700 funds collected and received by the department pursuant to a
 701 specific authorization and levy under s. 212.055, including any
 702 interest and penalties on delinquent surtaxes.

703 (b) The proceeds of a discretionary sales surtax collected
 704 by the selling dealer located in a county which imposes the
 705 surtax shall be returned, less the cost of administration, to
 706 the county where the selling dealer is located. The proceeds
 707 shall be transferred to the Discretionary Sales Surtax Clearing
 708 Trust Fund. A separate account shall be established in such
 709 trust fund for each county imposing a discretionary surtax. The
 710 amount deducted for the costs of administration shall not exceed
 711 3 percent of the total revenue generated for all counties
 712 levying a surtax authorized in s. 212.055. The amount deducted
 713 for the costs of administration shall be used only for those
 714 costs which are solely and directly attributable to the surtax.
 715 The total cost of administration shall be prorated among those
 716 counties levying the surtax on the basis of the amount collected
 717 for a particular county to the total amount collected for all
 718 counties. No later than March 1 of each year, the department
 719 shall submit a written report which details the expenses and
 720 amounts deducted for the costs of administration to the
 721 President of the Senate, the Speaker of the House of
 722 Representatives, and the governing authority of each county

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723 levying a surtax. The department shall distribute the moneys in
 724 the trust fund each month to the appropriate counties, unless
 725 otherwise provided in s. 212.055.

726 (c)1. Any dealer located in a county that does not impose
 727 a discretionary sales surtax but who collects the surtax due to
 728 sales of tangible personal property or services delivered
 729 outside the county shall remit monthly the proceeds of the
 730 surtax to the department to be deposited into an account in the
 731 Discretionary Sales Surtax Clearing Trust Fund which is separate
 732 from the county surtax collection accounts. The department shall
 733 distribute funds in this account using a distribution factor
 734 determined for each county that levies a surtax and multiplied
 735 by the amount of funds in the account and available for
 736 distribution. The distribution factor for each county equals the
 737 product of:

738 a. The county's latest official population determined
 739 pursuant to s. 186.901;

740 b. The county's rate of surtax; and

741 c. The number of months the county has levied a surtax
 742 during the most recent distribution period;

743
 744 divided by the sum of all such products of the counties levying
 745 the surtax during the most recent distribution period.

746 2. The department shall compute distribution factors for
 747 eligible counties once each quarter and make appropriate
 748 quarterly distributions.

749 3. A county that fails to timely provide the information
 750 required by this section to the department authorizes the
 751 department, by such action, to use the best information

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752 available to it in distributing surtax revenues to the county.
 753 If this information is unavailable to the department, the
 754 department may partially or entirely disqualify the county from
 755 receiving surtax revenues under this paragraph. A county that
 756 fails to provide timely information waives its right to
 757 challenge the department's determination of the county's share,
 758 if any, of revenues provided under this paragraph.

759 ~~(5) No discretionary sales surtax or increase or decrease~~
 760 ~~in the rate of any discretionary sales surtax shall take effect~~
 761 ~~on a date other than January 1. No discretionary sales surtax~~
 762 ~~shall terminate on a day other than December 31.~~

763 (6) The governing body of any county levying a
 764 discretionary sales surtax shall enact an ordinance levying the
 765 surtax in accordance with the procedures described in s.
 766 125.66(2).

767 (7)(a) Any adoption, repeal, or rate change of the surtax
 768 by the governing body of any county levying a discretionary
 769 sales surtax or the school board of any county levying the
 770 school capital outlay surtax authorized by s. 212.055(6) is
 771 effective on April 1. A county or school board adopting,
 772 repealing, or changing the rate of such tax shall notify the
 773 department within 10 days after final adoption by ordinance or
 774 referendum of an adoption, repeal ~~imposition, termination,~~ or
 775 rate change of the surtax, but no later than November 16
 776 immediately preceding such April 1 ~~prior to the~~ effective date.
 777 The notice must specify the time period during which the surtax
 778 will be in effect and the rate and must include a copy of the
 779 ordinance and such other information as the department requires
 780 by rule. Failure to timely provide such notification to the

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781 department shall result in the delay of the effective date for a
 782 period of 1 year.

783 (b) In addition to the notification required by paragraph
 784 (a), the governing body of any county proposing to levy a
 785 discretionary sales surtax or the school board of any county
 786 proposing to levy the school capital outlay surtax authorized by
 787 s. 212.055(6) shall notify the department by October 1 if the
 788 referendum or consideration of the ordinance that would result
 789 in imposition, termination, or rate change of the surtax is
 790 scheduled to occur on or after October 1 of that year. Failure
 791 to timely provide such notification to the department shall
 792 result in the delay of the effective date for a period of 1
 793 year.

794 (8) The department shall provide notice of such adoption,
 795 repeal, or change to all affected sellers by the December 1
 796 immediately preceding the April 1 effective date.

797 (9)~~(8)~~ With respect to any motor vehicle or mobile home of
 798 a class or type which is required to be registered in this
 799 state, the tax due on a transaction occurring in the taxing
 800 county as herein provided shall be collected from the purchaser
 801 or user incident to the titling and registration of such
 802 property, irrespective of whether such titling or registration
 803 occurs in the taxing county.

804 (10) For the purpose of the state providing and
 805 maintaining a database of all sales and use tax rates for all
 806 local taxing jurisdictions in accordance with the Streamlined
 807 Sales and Use Tax Agreement under s. 213.256, the provisions of
 808 s. 202.22(2) shall apply.

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809 (a) A seller or certified service provider who collects
 810 and remits the state and local sales and use tax imposed by this
 811 chapter shall use the database provided under s. 202.22(2).

812 (b) A seller or certified service provider that collects
 813 and remits the state and local sales and use tax imposed under
 814 this chapter shall be held harmless from tax, interest, and
 815 penalties which would otherwise be due solely as a result of the
 816 seller or certified service provider relying on an incorrect
 817 taxing jurisdiction assignment made in the database provided
 818 under s. 202.22(2).

819 (c) The provisions of this subsection shall not apply when
 820 the purchased product is received by the purchaser at the
 821 business location of the seller.

822 Section 5. Present subsections (3) through (16) of section
 823 212.06, Florida Statutes, are renumbered as subsections (4)
 824 through (17), respectively, a new subsection (3) is added to
 825 said section, and present subsection (3) of said section is
 826 amended, to read:

827 212.06 Sales, storage, use tax; collectible from dealers;
 828 "dealer" defined; dealers to collect from purchasers;
 829 legislative intent as to scope of tax.--

830 (3) It is the intent of this chapter to apply this
 831 subsection to determine the source of a transaction for purposes
 832 of applying the tax imposed by this chapter. When the source of
 833 the transaction is determined to be a Florida location, the tax
 834 imposed by this chapter applies in accordance with this chapter.

835 (a) For purposes of this subsection, the terms "receive"
 836 and "receipt" mean:

837 1. Taking possession of tangible personal property;

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838 2. Making first use of services; or
 839 3. Taking possession or making first use of digital goods,
 840 whichever comes first.

841
 842 The terms do not include possession by a shipping company on
 843 behalf of the purchaser.

844 (b) For purposes of this subsection, the term "product"
 845 means tangible personal property, a digital good, or a service.

846 (c) This section does not apply to the sales or use taxes
 847 levied on the following:

848 1. The retail sale or transfer of boats, modular homes,
 849 manufactured homes, or mobile homes;

850 2. The retail sale, excluding lease or rental, of motor
 851 vehicles or aircraft that do not qualify as transportation
 852 equipment as defined in paragraph (g). The lease or rental of
 853 these items shall be deemed to have occurred in accordance with
 854 paragraph (f).

855 3. The retail sale of tangible personal property by a
 856 florist.

857
 858 Such retail sales are deemed to take place in accordance with s.
 859 212.054(4).

860 (d) The retail sale of a product, excluding a lease or
 861 rental, shall be deemed to take place:

862 1. When the product is received by the purchaser at a
 863 business location of the seller, at that business location.

864 2. When the product is not received by the purchaser at a
 865 business location of the seller, at the location where receipt
 866 by the purchaser, or the purchaser's donee, designated as such

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867 by the purchaser, occurs, including the location indicated by
 868 instructions for delivery to the purchaser or donee, known to
 869 the seller.

870 3. When subparagraphs 1. and 2. do not apply, at the
 871 location indicated by an address for the purchaser which is
 872 available from the business records of the seller which are
 873 maintained in the ordinary course of the seller's business when
 874 use of this address does not constitute bad faith.

875 4. When subparagraphs 1., 2., and 3. do not apply, at the
 876 location indicated by an address for the purchaser obtained
 877 during the consummation of the sale, including the address of a
 878 purchaser's payment instrument, if no other address is
 879 available, when use of this address does not constitute bad
 880 faith.

881 5. When subparagraphs 1., 2., 3., and 4. do not apply,
 882 including when the seller is without sufficient information to
 883 apply the previous paragraphs, the address from which tangible
 884 personal property was shipped, from which the digital good or
 885 the computer software delivered electronically was first
 886 available for transmission by the seller, or from which the
 887 service was provided, disregarding any location that merely
 888 provided the digital transfer of the product sold.

889 (e) The lease or rental of tangible personal property,
 890 other than property identified in paragraphs (f) and (g), shall
 891 be deemed to have occurred as follows:

892 1. For a lease or rental that requires recurring periodic
 893 payments, the first periodic payment is deemed to take place in
 894 accordance with paragraph (d), notwithstanding the exclusion of
 895 lease or rental in paragraph (d). Subsequent periodic payments

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896 are deemed to have occurred at the primary property location for
897 each period covered by the payment. The primary property
898 location is determined by an address for the property provided
899 by the lessee which is available to the lessor from its records
900 maintained in the ordinary course of business, when use of this
901 address does not constitute bad faith. The property location
902 shall not be altered by intermittent use of the property at
903 different locations, such as use of business property that
904 accompanies employees on business trips and service calls.

905 2. For a lease or rental that does not require recurring
906 periodic payments, the payment is deemed to take place in
907 accordance with the provisions of paragraph (d), notwithstanding
908 the exclusion of lease or rental in paragraph (d).

909 3. This paragraph does not affect the imposition or
910 computation of sales or use tax on leases or rentals based on a
911 lump-sum or accelerated basis or on the acquisition of property
912 for lease.

913 (f) The lease or rental of motor vehicles or aircraft that
914 do not qualify as transportation equipment, as defined in
915 paragraph (g), shall be sourced as follows:

916 1. For a lease or rental that requires recurring periodic
917 payments, each periodic payment is deemed to take place at the
918 primary property location. The primary property location shall
919 be determined by an address for the property provided by the
920 lessee which is available to the lessor from its records
921 maintained in the ordinary course of business, when use of this
922 address does not constitute bad faith. This location shall not
923 be altered by intermittent use at different locations.

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924 2. For a lease or rental that does not require recurring
 925 periodic payments, the payment is deemed to take place in
 926 accordance with paragraph (d), notwithstanding the exclusion of
 927 lease or rental in paragraph (d).

928 3. This paragraph does not affect the imposition or
 929 computation of sales or use tax on leases or rentals based on a
 930 lump-sum or accelerated basis or on the acquisition of property
 931 for lease.

932 (g) The retail sale, including lease or rental, of
 933 transportation equipment shall be deemed to take place in
 934 accordance with paragraph (d), notwithstanding the exclusion of
 935 lease or rental in paragraph (d). The term "transportation
 936 equipment" means:

937 1. Locomotives and railcars that are used for the carriage
 938 of persons or property in interstate commerce;

939 2. Trucks and truck tractors with a Gross Vehicle Weight
 940 Rating (GVWR) of 10,001 pounds or greater, trailers,
 941 semitrailers, or passenger buses that are registered through the
 942 International Registration Plan and operated under authority of
 943 a carrier authorized and certificated by the United States
 944 Department of Transportation or another federal authority to
 945 engage in the carriage of persons or property in interstate
 946 commerce;

947 3. Aircraft that are operated by air carriers authorized
 948 and certificated by the United States Department of
 949 Transportation or another federal or a foreign authority to
 950 engage in the carriage of persons or property in interstate or
 951 foreign commerce; or

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952 4. Containers designed for use on and component parts
 953 attached or secured on the items set forth in subparagraphs 1.
 954 through 3.

955 ~~(4)(3)(a)~~ Except as provided in paragraphs (a) and
 956 ~~paragraph~~ (b), every dealer making retail sales, whether within
 957 or outside the state, of tangible personal property for
 958 distribution, storage, or use or other consumption, in this
 959 state, shall, at the time of making sales, collect the tax
 960 imposed by this chapter from the purchaser.

961 (a) Notwithstanding subsection (3), a business purchaser
 962 that is not a holder of a direct-pay permit and that knows at
 963 the time of purchase of a digital good, computer software
 964 delivered electronically, or service that the digital good,
 965 computer software delivered electronically, or service will be
 966 concurrently available for use in more than one jurisdiction
 967 shall deliver to the dealer a multiple points of use exemption
 968 form (MPU exemption form) at the time of purchase.

969 1. Upon receipt of the MPU exemption form, the seller is
 970 relieved of all obligation to collect, pay, or remit the
 971 applicable tax, and the purchaser shall be obligated to collect,
 972 pay, or remit the applicable tax on a direct-pay basis.

973 2. A purchaser delivering the MPU exemption form may use
 974 any reasonable, but consistent and uniform, method of
 975 apportionment that is supported by the purchaser's business
 976 records as they exist at the time of the consummation of the
 977 sale.

978 3. The MPU exemption form will remain in effect for all
 979 future sales by the seller to the purchaser, except as to the
 980 subsequent sale's specific apportionment that is governed by the

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981 principle of subparagraph 2. and the facts existing at the time
 982 of the sale, until the MPU exemption form is revoked in writing.

983 4. A holder of a direct-pay permit is not required to
 984 deliver an MPU exemption form to the seller. A direct-pay
 985 permitholder shall follow the provisions of subparagraph 2. in
 986 apportioning the tax due on a digital good or a service that
 987 will be concurrently available for use in more than one
 988 jurisdiction.

989 (b)1. Notwithstanding subsection (3), a purchaser of
 990 direct mail that is not a holder of a direct-pay permit shall
 991 provide to the seller in conjunction with the purchase either a
 992 direct mail form or information to show the jurisdictions to
 993 which the direct mail is delivered to recipients. Upon receipt
 994 of the direct mail form, the seller is relieved of all
 995 obligations to collect, pay, or remit the applicable tax, and
 996 the purchaser is obligated to pay or remit the applicable tax on
 997 a direct-pay basis. A direct mail form shall remain in effect
 998 for all future sales of direct mail by the seller to the
 999 purchaser until it is revoked in writing.

1000 2. Upon receipt of information from the purchaser showing
 1001 the jurisdictions to which the direct mail is delivered to
 1002 recipients, the seller shall collect the tax according to the
 1003 delivery information provided by the purchaser. In the absence
 1004 of bad faith, the seller is relieved of any further obligation
 1005 to collect tax on any transaction on which the seller has
 1006 collected tax pursuant to the delivery information provided by
 1007 the purchaser.

1008 3. If the purchaser of direct mail does not have a direct-
 1009 pay permit and does not provide the seller with either a direct

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1010 mail form or delivery information as required by subparagraph
 1011 1., the seller shall collect the tax according to subparagraph
 1012 5. This paragraph does not limit a purchaser's obligation for
 1013 sales or use tax to any state to which the direct mail is
 1014 delivered.

1015 4. If a purchaser of direct mail provides the seller with
 1016 documentation of direct-pay authority, the purchaser is not
 1017 required to provide a direct mail form or delivery information
 1018 to the seller ~~A purchaser of printed materials shall have sole~~
 1019 ~~responsibility for the taxes imposed by this chapter on those~~
 1020 ~~materials when the printer of the materials delivers them to the~~
 1021 ~~United States Postal Service for mailing to persons other than~~
 1022 ~~the purchaser located within and outside this state. Printers of~~
 1023 ~~materials delivered by mail to persons other than the purchaser~~
 1024 ~~located within and outside this state shall have no obligation~~
 1025 ~~or responsibility for the payment or collection of any taxes~~
 1026 ~~imposed under this chapter on those materials. However, printers~~
 1027 ~~are obligated to collect the taxes imposed by this chapter on~~
 1028 ~~printed materials when all, or substantially all, of the~~
 1029 ~~materials will be mailed to persons located within this state.~~
 1030 ~~For purposes of the printer's tax collection obligation, there~~
 1031 ~~is a rebuttable presumption that all materials printed at a~~
 1032 ~~facility are mailed to persons located within the same state as~~
 1033 ~~that in which the facility is located. A certificate provided by~~
 1034 ~~the purchaser to the printer concerning the delivery of the~~
 1035 ~~printed materials for that purchase or all purchases shall be~~
 1036 ~~sufficient for purposes of rebutting the presumption created~~
 1037 ~~herein.~~

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1038 ~~5.2-~~ The Department of Revenue is authorized to adopt
 1039 rules and forms to implement the provisions of this paragraph.

1040 Section 6. Subsections (1) and (2) and paragraph (t) of
 1041 subsection (7) of section 212.08, Florida Statutes, are amended
 1042 to read:

1043 212.08 Sales, rental, use, consumption, distribution, and
 1044 storage tax; specified exemptions.--The sale at retail, the
 1045 rental, the use, the consumption, the distribution, and the
 1046 storage to be used or consumed in this state of the following
 1047 are hereby specifically exempt from the tax imposed by this
 1048 chapter.

1049 (1) EXEMPTIONS; GENERAL GROCERIES.--

1050 (a) Food and food ingredients ~~products~~ for human
 1051 consumption are exempt from the tax imposed by this chapter.

1052 (b) For the purpose of this chapter, as used in this
 1053 subsection, the term "food and food ingredients ~~products~~" means
 1054 substances, whether in liquid, concentrated, solid, frozen,
 1055 dried, or dehydrated form, which are sold for ingestion or
 1056 chewing by humans and are consumed for their taste or
 1057 nutritional value ~~edible commodities, whether processed, cooked,~~
 1058 ~~raw, canned, or in any other form, which are generally regarded~~
 1059 ~~as food~~. This includes, but is not limited to, all of the
 1060 following:

1061 ~~1. Cereals and cereal products, baked goods,~~
 1062 ~~oleomargarine, meat and meat products, fish and seafood~~
 1063 ~~products, frozen foods and dinners, poultry, eggs and egg~~
 1064 ~~products, vegetables and vegetable products, fruit and fruit~~
 1065 ~~products, spices, salt, sugar and sugar products, milk and dairy~~
 1066 ~~products, and products intended to be mixed with milk.~~

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1067 ~~2. Natural fruit or vegetable juices or their concentrates~~
 1068 ~~or reconstituted natural concentrated fruit or vegetable juices,~~
 1069 ~~whether frozen or unfrozen, dehydrated, powdered, granulated,~~
 1070 ~~sweetened or unsweetened, seasoned with salt or spice, or~~
 1071 ~~unseasoned; coffee, coffee substitutes, or cocoa; and tea,~~
 1072 ~~unless it is sold in a liquid form.~~

1073 1.3. Bakery products sold by bakeries, pastry shops, or
 1074 like establishments, if sold without eating utensils. Bakery
 1075 products for purposes of this subsection include bread, rolls,
 1076 buns, biscuits, bagels, croissants, pastries, doughnuts, danish,
 1077 cakes, tortes, pies, tarts, muffins, bars, cookies, and
 1078 tortillas that do not have eating facilities.

1079 2. Dietary supplements. The term "dietary supplements"
 1080 means any product, other than tobacco, intended to supplement
 1081 the diet that contains one or more of the following dietary
 1082 ingredients: a vitamin; a mineral; an herb or other botanical;
 1083 an amino acid; a dietary substance for use by humans to
 1084 supplement the diet by increasing the total dietary intake; or a
 1085 concentrate, metabolite, constituent, extract, or combination of
 1086 any ingredient described in this subparagraph which is intended
 1087 for ingestion in tablet, capsule, powder, softgel, gelcap, or
 1088 liquid form or, if not intended for ingestion in such a form, is
 1089 not represented as conventional food and is not represented for
 1090 use as a sole item of a meal or of the diet; and which is
 1091 required to be labeled as a dietary supplement, identifiable by
 1092 the "supplemental facts" box found on the label and as required
 1093 pursuant to 21 C.F.R. s. 101.36.

1094 (c) The exemption provided by this subsection does not
 1095 apply:

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- ~~1. When the food products are sold as meals for consumption on or off the premises of the dealer.~~
- ~~2. When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware, whether provided by the dealer or by a person with whom the dealer contracts to furnish, prepare, or serve food products to others.~~
- ~~3. When the food products are ordinarily sold for immediate consumption on the seller's premises or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though such products are sold on a "take out" or "to go" order and are actually packaged or wrapped and taken from the premises of the dealer.~~
- ~~4. To sandwiches sold ready for immediate consumption on or off the seller's premises.~~
- ~~5. When the food products are sold ready for immediate consumption within a place, the entrance to which is subject to an admission charge.~~
- 1.6. When the food and food ingredients products are sold as hot prepared food products.
- 2.7. To soft drinks, ~~which include, but are not limited to, any nonalcoholic beverage, any preparation or beverage commonly referred to as a "soft drink," or any noncarbonated drink made from milk derivatives or tea, when sold in cans or similar containers.~~ The term "soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain milk or milk

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1124 products, soy, rice, or similar milk substitutes, or greater
 1125 than 50 percent of vegetable or fruit juice by volume.

1126 ~~8. To ice cream, frozen yogurt, and similar frozen dairy~~
 1127 ~~or nondairy products in cones, small cups, or pints, popsicles,~~
 1128 ~~frozen fruit bars, or other novelty items, whether or not sold~~
 1129 ~~separately.~~

1130 ~~9. To food prepared, whether on or off the premises, and~~
 1131 ~~sold for immediate consumption. This does not apply to food~~
 1132 ~~prepared off the premises and sold in the original sealed~~
 1133 ~~container, or the slicing of products into smaller portions.~~

1134 ~~3.10.~~ When the food and food ingredients ~~products~~ are sold
 1135 through a vending machine, ~~pushcart, motor vehicle, or any other~~
 1136 ~~form of vehicle.~~

1137 ~~4.11.~~ To candy and any similar product regarded as candy
 1138 or confection, ~~based on its normal use, as indicated on the~~
 1139 ~~label or advertising thereof.~~ The term "candy" means a
 1140 preparation of sugar, honey, or other natural or artificial
 1141 sweeteners in combination with chocolate, fruits, nuts, or other
 1142 ingredients or flavorings in the form of bars, drops, or pieces.
 1143 Candy does not include any preparation that contains flour and
 1144 requires no refrigeration.

1145 5. To tobacco.

1146 ~~12. To bakery products sold by bakeries, pastry shops, or~~
 1147 ~~like establishments that have eating facilities, except when~~
 1148 ~~sold for consumption off the seller's premises.~~

1149 ~~13. When food products are served, prepared, or sold in or~~
 1150 ~~by restaurants, lunch counters, cafeterias, hotels, taverns, or~~
 1151 ~~other like places of business.~~

1152 (d) As used in this subsection, the term:

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1153 ~~1. "For consumption off the seller's premises" means that~~
 1154 ~~the food or drink is intended by the customer to be consumed at~~
 1155 ~~a place away from the dealer's premises.~~

1156 ~~2. "For consumption on the seller's premises" means that~~
 1157 ~~the food or drink sold may be immediately consumed on the~~
 1158 ~~premises where the dealer conducts his or her business. In~~
 1159 ~~determining whether an item of food is sold for immediate~~
 1160 ~~consumption, there shall be considered the customary consumption~~
 1161 ~~practices prevailing at the selling facility.~~

1162 ~~3. "Premises" shall be construed broadly, and means, but~~
 1163 ~~is not limited to, the lobby, aisle, or auditorium of a theater;~~
 1164 ~~the seating, aisle, or parking area of an arena, rink, or~~
 1165 ~~stadium; or the parking area of a drive-in or outdoor theater.~~
 1166 ~~The premises of a caterer with respect to catered meals or~~
 1167 ~~beverages shall be the place where such meals or beverages are~~
 1168 ~~served.~~

1169 1.4. "Hot Prepared food products" means food sold in a
 1170 heated state or heated by the seller; two or more food
 1171 ingredients mixed or combined by the seller for sale as a single
 1172 item; or food sold with eating utensils provided by the seller,
 1173 including plates, knives, forks, spoons, glasses, cups, napkins,
 1174 or straws. A plate does not include a container or packaging
 1175 used to transport the food. Prepared food does not include food
 1176 that is only cut, repackaged, or pasteurized by the seller and
 1177 eggs, fish, meat, poultry, and foods containing these raw animal
 1178 foods requiring cooking by the consumer as recommended by the
 1179 Food and Drug Administration in chapter 3, part 401.11 of its
 1180 food code so as to prevent food-borne illnesses. "Prepared food"
 1181 for purposes of this subsection includes sandwiches sold for

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1182 immediate consumption, and those products, items, or components
 1183 ~~which have been prepared for sale in a heated condition and~~
 1184 ~~which are sold at any temperature that is higher than the air~~
 1185 ~~temperature of the room or place where they are sold. "Hot~~
 1186 ~~prepared food products," for the purposes of this subsection,~~
 1187 ~~includes~~ a combination of hot and cold food items or components
 1188 where a single price has been established for the combination
 1189 and the food products are sold in such combination, such as a
 1190 ~~hot~~ meal, a ~~hot~~ specialty dish or serving, or a ~~hot~~ sandwich or
 1191 ~~hot~~ pizza, or ice cream cones or sundaes, or food sold in an
 1192 unheated state by weight or volume as a single item, including
 1193 cold components or side items.

1194 (e)1. Food or drinks not exempt under paragraphs (a), (b),
 1195 (c), and (d) shall be exempt, notwithstanding those paragraphs,
 1196 when purchased with food coupons or Special Supplemental Food
 1197 Program for Women, Infants, and Children vouchers issued under
 1198 authority of federal law.

1199 2. This paragraph is effective only while federal law
 1200 prohibits a state's participation in the federal food coupon
 1201 program or Special Supplemental Food Program for Women, Infants,
 1202 and Children if there is an official determination that state or
 1203 local sales taxes are collected within that state on purchases
 1204 of food or drinks with such coupons.

1205 3. This paragraph shall not apply to any food or drinks on
 1206 which federal law shall permit sales taxes without penalty, such
 1207 as termination of the state's participation.

1208 (f) Dietary supplements that are sold as prepared food are
 1209 not exempt.

1210 (2) EXEMPTIONS; MEDICAL.--

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- 1211 (a) There shall be exempt from the tax imposed by this
 1212 chapter:
- 1213 1. Any drug;
 - 1214 2. Durable medical equipment, mobility enhancing
 1215 equipment, or prosthetic device ~~any medical products and~~
 1216 ~~supplies or medicine~~ dispensed according to an individual
 1217 prescription or prescriptions ~~written by a prescriber authorized~~
 1218 ~~by law to prescribe medicinal drugs;~~
 - 1219 3. Hypodermic needles; hypodermic syringes;
 - 1220 4. Chemical compounds and test kits used for the diagnosis
 1221 or treatment of human disease, illness, or injury intended for
 1222 one-time use;
 - 1223 5. Over-the-counter drugs ~~and common household remedies~~
 1224 ~~recommended and generally sold for internal or external use in~~
 1225 ~~the cure, mitigation, treatment, or prevention of illness or~~
 1226 ~~disease in human beings, but not including grooming and hygiene~~
 1227 ~~products;~~
 - 1228 6. Antiseptic adhesive strips, gauze, bandages, adhesive
 1229 tape;
 - 1230 7. Hearing aids;
 - 1231 8. Dental prosthesis; or
 - 1232 9. Funerals.

1233

1234 Funeral directors shall pay tax on all tangible personal
 1235 property used by them in their business ~~cosmetics or toilet~~
 1236 ~~articles, notwithstanding the presence of medicinal ingredients~~
 1237 ~~therein, according to a list prescribed and approved by the~~
 1238 ~~Department of Health, which list shall be certified to the~~
 1239 ~~Department of Revenue from time to time and included in the~~

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1240 ~~rules promulgated by the Department of Revenue. There shall also~~
 1241 ~~be exempt from the tax imposed by this chapter artificial eyes~~
 1242 ~~and limbs; orthopedic shoes; prescription eyeglasses and items~~
 1243 ~~incidental thereto or which become a part thereof; dentures;~~
 1244 ~~hearing aids; crutches; prosthetic and orthopedic appliances;~~
 1245 ~~and funerals. In addition, any items intended for one-time use~~
 1246 ~~which transfer essential optical characteristics to contact~~
 1247 ~~lenses shall be exempt from the tax imposed by this chapter;~~
 1248 ~~however, this exemption shall apply only after \$100,000 of the~~
 1249 ~~tax imposed by this chapter on such items has been paid in any~~
 1250 ~~calendar year by a taxpayer who claims the exemption in such~~
 1251 ~~year. Funeral directors shall pay tax on all tangible personal~~
 1252 ~~property used by them in their business.~~

1253 (b) For the purposes of this subsection, the term:

1254 1. "Drug" means a compound, substance, or preparation, and
 1255 any component of a compound, substance, or preparation, other
 1256 than food and food ingredients, dietary supplements, and
 1257 alcoholic beverages, which is:

1258 a. Recognized in the official United States Pharmacopoeia,
 1259 official Homeopathic Pharmacopoeia of the United States, or
 1260 official National Formulary, or the supplement to any of them;

1261 b. Intended for use in the diagnosis, cure, mitigation,
 1262 treatment, or prevention of disease; or

1263 c. Intended to affect the structure or any function of the
 1264 body.

1265 2. "Durable medical equipment" means equipment, including
 1266 repair and replacement parts to such equipment, but the term
 1267 does not include mobility-enhancing equipment, which can
 1268 withstand repeated use, is primarily and customarily used to

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1269 serve a medical purpose, generally is not useful to a person in
 1270 the absence of illness or injury, and is not worn on or in the
 1271 body.

1272 3. "Mobility-enhancing equipment" means equipment,
 1273 including repair and replacement parts to such equipment, but
 1274 the term does not include durable medical equipment, which:

1275 a. Is primarily and customarily used to provide or
 1276 increase the ability to move from one place to another and which
 1277 is appropriate for use either in a home or a motor vehicle;

1278 b. Is not generally used by persons with normal mobility;
 1279 and

1280 c. Does not include any motor vehicle or any equipment on
 1281 a motor vehicle normally provided by a motor vehicle
 1282 manufacturer.

1283 4. "Prosthetic device" means a replacement, corrective, or
 1284 supportive device, including repair or replacement parts to such
 1285 equipment, other than a hearing aid or a dental prosthesis, that
 1286 is worn on or in the body to:

1287 a. Artificially replace a missing portion of the body;

1288 b. Prevent or correct physical deformity or malfunction;

1289 or

1290 c. Support a weak or deformed portion of the body.

1291 5. "Grooming and hygiene products" are soaps and cleaning
 1292 solutions, shampoo, toothpaste, mouthwash, antiperspirants, and
 1293 suntan lotions and screens, regardless of whether the items meet
 1294 the definition of over-the-counter drugs.

1295 6. "Over-the-counter drug" means a drug the packaging for
 1296 which contains a label that identifies the product as a drug as
 1297 required by 21 C.F.R. s. 201.66. The over-the-counter drug label

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1298 includes a "drug facts" panel or a statement of the active
1299 ingredients with a list of those ingredients contained in the
1300 compound, substance, or preparation ~~"Prosthetic and orthopedic~~
1301 ~~appliances" means any apparatus, instrument, device, or~~
1302 ~~equipment used to replace or substitute for any missing part of~~
1303 ~~the body, to alleviate the malfunction of any part of the body,~~
1304 ~~or to assist any disabled person in leading a normal life by~~
1305 ~~facilitating such person's mobility. Such apparatus, instrument,~~
1306 ~~device, or equipment shall be exempted according to an~~
1307 ~~individual prescription or prescriptions written by a physician~~
1308 ~~licensed under chapter 458, chapter 459, chapter 460, chapter~~
1309 ~~461, or chapter 466, or according to a list prescribed and~~
1310 ~~approved by the Department of Health, which list shall be~~
1311 ~~certified to the Department of Revenue from time to time and~~
1312 ~~included in the rules promulgated by the Department of Revenue.~~

1313 ~~2. "Cosmetics" means articles intended to be rubbed,~~
1314 ~~poured, sprinkled, or sprayed on, introduced into, or otherwise~~
1315 ~~applied to the human body for cleansing, beautifying, promoting~~
1316 ~~attractiveness, or altering the appearance and also means~~
1317 ~~articles intended for use as a compound of any such articles,~~
1318 ~~including, but not limited to, cold creams, suntan lotions,~~
1319 ~~makeup, and body lotions.~~

1320 ~~3. "Toilet articles" means any article advertised or held~~
1321 ~~out for sale for grooming purposes and those articles that are~~
1322 ~~customarily used for grooming purposes, regardless of the name~~
1323 ~~by which they may be known, including, but not limited to, soap,~~
1324 ~~toothpaste, hair spray, shaving products, colognes, perfumes,~~
1325 ~~shampoo, deodorant, and mouthwash.~~

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1326 7.4. "Prescription" means an order, formula, or recipe
 1327 issued in any form of oral, written, electronic, or other means
 1328 of transmission by a duly licensed practitioner authorized by
 1329 chapter 458, chapter 459, chapter 460, chapter 461, or chapter
 1330 466. The term also includes an orally transmitted order by the
 1331 lawfully designated agent of such practitioner. The term also
 1332 includes an order written or transmitted by a practitioner
 1333 licensed to practice in a jurisdiction other than this state,
 1334 but only if the pharmacist called upon to dispense such order
 1335 determines, in the exercise of his or her professional judgment,
 1336 that the order is valid and necessary for the treatment of a
 1337 chronic or recurrent illness ~~includes any order for drugs or~~
 1338 ~~medicinal supplies written or transmitted by any means of~~
 1339 ~~communication by a duly licensed practitioner authorized by the~~
 1340 ~~laws of the state to prescribe such drugs or medicinal supplies~~
 1341 ~~and intended to be dispensed by a pharmacist. The term also~~
 1342 ~~includes an orally transmitted order by the lawfully designated~~
 1343 ~~agent of such practitioner. The term also includes an order~~
 1344 ~~written or transmitted by a practitioner licensed to practice in~~
 1345 ~~a jurisdiction other than this state, but only if the pharmacist~~
 1346 ~~called upon to dispense such order determines, in the exercise~~
 1347 ~~of his or her professional judgment, that the order is valid and~~
 1348 ~~necessary for the treatment of a chronic or recurrent illness.~~
 1349 ~~The term also includes a pharmacist's order for a product~~
 1350 ~~selected from the formulary created pursuant to s. 465.186. A~~
 1351 ~~prescription may be retained in written form, or the pharmacist~~
 1352 ~~may cause it to be recorded in a data processing system,~~
 1353 ~~provided that such order can be produced in printed form upon~~
 1354 ~~lawful request.~~

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1355 (c) Chlorine shall not be exempt from the tax imposed by
 1356 this chapter when used for the treatment of water in swimming
 1357 pools.

1358 ~~(d) Lithotripters are exempt.~~

1359 (d)(e) Human organs are exempt.

1360 ~~(f) Sales of drugs to or by physicians, dentists,~~
 1361 ~~veterinarians, and hospitals in connection with medical~~
 1362 ~~treatment are exempt.~~

1363 ~~(g) Medical products and supplies used in the cure,~~
 1364 ~~mitigation, alleviation, prevention, or treatment of injury,~~
 1365 ~~disease, or incapacity which are temporarily or permanently~~
 1366 ~~incorporated into a patient or client by a practitioner of the~~
 1367 ~~healing arts licensed in the state are exempt.~~

1368 ~~(h) The purchase by a veterinarian of commonly recognized~~
 1369 ~~substances possessing curative or remedial properties which are~~
 1370 ~~ordered and dispensed as treatment for a diagnosed health~~
 1371 ~~disorder by or on the prescription of a duly licensed~~
 1372 ~~veterinarian, and which are applied to or consumed by animals~~
 1373 ~~for alleviation of pain or the cure or prevention of sickness,~~
 1374 ~~disease, or suffering are exempt. Also exempt are the purchase~~
 1375 ~~by a veterinarian of antiseptics, absorbent cotton, gauze for~~
 1376 ~~bandages, lotions, vitamins, and worm remedies.~~

1377 ~~(i) X-ray opaques, also known as opaque drugs and~~
 1378 ~~radiopaque, such as the various opaque dyes and barium sulphate,~~
 1379 ~~when used in connection with medical X rays for treatment of~~
 1380 ~~bodies of humans and animals, are exempt.~~

1381 (e)(j) Parts, special attachments, special lettering, and
 1382 other like items that are added to or attached to tangible
 1383 personal property so that a handicapped person can use them are

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1384 exempt when such items are purchased by a person pursuant to an
 1385 individual prescription.

1386 (f)~~(k)~~ This subsection shall be strictly construed and
 1387 enforced.

1388 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any
 1389 entity by this chapter do not inure to any transaction that is
 1390 otherwise taxable under this chapter when payment is made by a
 1391 representative or employee of the entity by any means,
 1392 including, but not limited to, cash, check, or credit card, even
 1393 when that representative or employee is subsequently reimbursed
 1394 by the entity. In addition, exemptions provided to any entity by
 1395 this subsection do not inure to any transaction that is
 1396 otherwise taxable under this chapter unless the entity has
 1397 obtained a sales tax exemption certificate from the department
 1398 or the entity obtains or provides other documentation as
 1399 required by the department. Eligible purchases or leases made
 1400 with such a certificate must be in strict compliance with this
 1401 subsection and departmental rules, and any person who makes an
 1402 exempt purchase with a certificate that is not in strict
 1403 compliance with this subsection and the rules is liable for and
 1404 shall pay the tax. The department may adopt rules to administer
 1405 this subsection.

1406 (t) Boats temporarily docked in state.--

1407 1. Notwithstanding the provisions of chapter 328,
 1408 pertaining to the registration of vessels, a boat upon which the
 1409 state sales or use tax has not been paid is exempt from the use
 1410 tax under this chapter if it enters and remains in this state
 1411 for a period not to exceed a total of 20 days in any calendar
 1412 year calculated from the date of first dockage or slippage at a

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1413 facility, registered with the department, that rents dockage or
 1414 slippage space in this state. If a boat brought into this state
 1415 for use under this paragraph is placed in a facility, registered
 1416 with the department, for repairs, alterations, refitting, or
 1417 modifications and such repairs, alterations, refitting, or
 1418 modifications are supported by written documentation, the 20-day
 1419 period shall be tolled during the time the boat is physically in
 1420 the care, custody, and control of the repair facility, including
 1421 the time spent on sea trials conducted by the facility. The 20-
 1422 day time period may be tolled only once within a calendar year
 1423 when a boat is placed for the first time that year in the
 1424 physical care, custody, and control of a registered repair
 1425 facility; however, the owner may request and the department may
 1426 grant an additional tolling of the 20-day period for purposes of
 1427 repairs that arise from a written guarantee given by the
 1428 registered repair facility, which guarantee covers only those
 1429 repairs or modifications made during the first tolled period.
 1430 Within 72 hours after the date upon which the registered repair
 1431 facility took possession of the boat, the facility must have in
 1432 its possession, on forms prescribed by the department, an
 1433 affidavit which states that the boat is under its care, custody,
 1434 and control and that the owner does not use the boat while in
 1435 the facility. Upon completion of the repairs, alterations,
 1436 refitting, or modifications, the registered repair facility
 1437 must, within 72 hours after the date of release, have in its
 1438 possession a copy of the release form which shows the date of
 1439 release and any other information the department requires. The
 1440 repair facility shall maintain a log that documents all
 1441 alterations, additions, repairs, and sea trials during the time

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1442 the boat is under the care, custody, and control of the
 1443 facility. The affidavit shall be maintained by the registered
 1444 repair facility as part of its records for as long as required
 1445 by s. 213.35. When, within 6 months after the date of its
 1446 purchase, a boat is brought into this state under this
 1447 paragraph, the 6-month period provided in s. 212.05(1)(a)2. or
 1448 s. 212.06 (7)~~(8)~~ shall be tolled.

1449 2. During the period of repairs, alterations, refitting,
 1450 or modifications and during the 20-day period referred to in
 1451 subparagraph 1., the boat may be listed for sale, contracted for
 1452 sale, or sold exclusively by a broker or dealer registered with
 1453 the department without incurring a use tax under this chapter;
 1454 however, the sales tax levied under this chapter applies to such
 1455 sale.

1456 3. The mere storage of a boat at a registered repair
 1457 facility does not qualify as a tax-exempt use in this state.

1458 4. As used in this paragraph, "registered repair facility"
 1459 means:

- 1460 a. A full-service facility that:
 - 1461 (I) Is located on a navigable body of water;
 - 1462 (II) Has haulout capability such as a dry dock, travel
 1463 lift, railway, or similar equipment to service craft under the
 1464 care, custody, and control of the facility;
 - 1465 (III) Has adequate piers and storage facilities to provide
 1466 safe berthing of vessels in its care, custody, and control; and
 - 1467 (IV) Has necessary shops and equipment to provide repair
 1468 or warranty work on vessels under the care, custody, and control
 1469 of the facility;
- 1470 b. A marina that:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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- 1471 (I) Is located on a navigable body of water;
- 1472 (II) Has adequate piers and storage facilities to provide
- 1473 safe berthing of vessels in its care, custody, and control; and
- 1474 (III) Has necessary shops and equipment to provide repairs
- 1475 or warranty work on vessels; or
- 1476 c. A shoreside facility that:
 - 1477 (I) Is located on a navigable body of water;
 - 1478 (II) Has adequate piers and storage facilities to provide
 - 1479 safe berthing of vessels in its care, custody, and control; and
 - 1480 (III) Has necessary shops and equipment to provide repairs
 - 1481 or warranty work.

1482 Section 7. Section 212.095, Florida Statutes, is amended
 1483 to read:

1484 212.095 Refunds.--

1485 (1) No exemption granted on a refund basis pursuant to
 1486 this chapter is authorized except as provided in this section.

1487 ~~(2)(a) No person may secure a refund under this chapter~~
 1488 ~~unless such person is the holder of an unrevoked refund permit~~
 1489 ~~issued by the department before the purchase for which a refund~~
 1490 ~~is sought, which permit shall be numbered and issued annually.~~

1491 ~~(b) To procure a permit, a person must file with the~~
 1492 ~~department an application, on forms furnished by the department,~~
 1493 ~~stating that he or she is entitled to a refund according to the~~
 1494 ~~provisions of this chapter and that he or she intends to file an~~
 1495 ~~application for refund for the current calendar year, and must~~
 1496 ~~furnish the department such other information as the department~~
 1497 ~~requests.~~

1498 ~~(c) No person may in any event be allowed a refund unless~~
 1499 ~~he or she has filed the application provided for in paragraph~~

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1500 ~~(b) with the department. A permit shall be effective on the date~~
 1501 ~~issued by the department.~~

1502 ~~(d) If an applicant for a refund permit has violated any~~
 1503 ~~provision of this section or any regulation pursuant hereto, or~~
 1504 ~~has been convicted of bribery, theft, or false swearing within~~
 1505 ~~the period of 5 years preceding the application, or if the~~
 1506 ~~department has evidence of the financial irresponsibility of the~~
 1507 ~~applicant, the department may require the applicant to execute a~~
 1508 ~~corporate surety bond of \$1,000 to be approved by the~~
 1509 ~~department, conditioned upon the payment of all taxes,~~
 1510 ~~penalties, and fines for which such applicant may become liable~~
 1511 ~~under this chapter.~~

1512 (2)~~(3)~~(a) When a sale is made to a person who claims to be
 1513 entitled to a refund under this section, the seller shall make
 1514 out a sales invoice, which shall contain the following
 1515 information:

- 1516 1. The name and business address of the purchaser.
- 1517 2. A description of the item or services sold.
- 1518 3. The date on which the purchase was made.
- 1519 4. The price and amount of tax paid for the item or
- 1520 services.
- 1521 5. The name and place of business of the seller at which
- 1522 the sale was made.
- 1523 ~~6. The refund permit number of the purchaser.~~

1524 (b) The sales invoice shall be retained by the purchaser
 1525 for attachment to his or her application for a refund, as a part
 1526 thereof. No refund will be allowed unless the seller has
 1527 executed such an invoice and unless proof of payment of the
 1528 taxes for which the refund is claimed is attached. The

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1529 department may refuse to grant a refund if the invoice is
 1530 incomplete and fails to contain the full information required in
 1531 this subsection.

1532 (c) No person may execute a sales invoice, as described in
 1533 paragraph (a), except a dealer duly registered pursuant to this
 1534 chapter, or an authorized agent thereof.

1535 (3)~~(4)~~(a) No refund may be authorized unless a sworn
 1536 application therefor containing the information required in this
 1537 section is filed with the department not later than 30 days
 1538 immediately following the quarter for which the refund is
 1539 claimed. When a claim is filed after such 30 days and a
 1540 justified excuse for late filing is presented to the department
 1541 and the last preceding claim was filed on time, such late filing
 1542 may be accepted through 60 days following the quarter. No refund
 1543 will be authorized unless the amount due is for \$5 or more in
 1544 any quarter and unless application is made upon forms prescribed
 1545 by the department.

1546 (b) Claims shall be filed and paid for each calendar
 1547 quarter. The department shall deduct a fee of \$2 for each claim,
 1548 which fee shall be deposited in the General Revenue Fund.

1549 (c) Refund application forms shall include at a minimum
 1550 the following information:

1551 1. The name and address of the person claiming the refund.

1552 ~~2. The refund permit number of such person.~~

1553 ~~2.3.~~ The location at which the items or services for which
 1554 a refund is claimed are used.

1555 ~~3.4.~~ A description of each such item or service and the
 1556 purpose for which such item or service was acquired.

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1557 ~~4.5-~~ Copies of the sales invoices of items or services for
 1558 which a refund is being claimed.

1559 ~~(4)(5)~~ The right to receive any refund under the
 1560 provisions of this section is not assignable, except to the
 1561 executor or administrator, or to the receiver, trustee in
 1562 bankruptcy, or assignee in an insolvency proceeding, of the
 1563 person entitled to the refund.

1564 ~~(5)(6)~~(a) Each registered dealer shall, in accordance with
 1565 the requirements of the department, keep at his or her principal
 1566 place of business in this state or at the location where the
 1567 sale is made a complete record or duplicate sales tickets of all
 1568 items or services sold by the registered dealer for which a
 1569 refund provided in this section may be claimed, which records
 1570 shall contain the information required in paragraph ~~(2)(3)~~(a).

1571 (b) Every person applying for ~~to whom~~ a refund ~~permit has~~
 1572 ~~been issued~~ under this section shall, in accordance with the
 1573 requirements of the department, keep at his or her residence or
 1574 principal place of business in this state a record of each
 1575 purchase for which a refund is claimed, including the
 1576 information required in paragraph ~~(2)(3)~~(a).

1577 (c) The records required to be kept under this subsection
 1578 shall at all reasonable hours be subject to audit or inspection
 1579 by the department or by any person duly authorized by it. Such
 1580 records shall be preserved and may not be destroyed until 3
 1581 years after the date the item to which they relate was sold or
 1582 purchased.

1583 (d) The department shall keep a permanent record of the
 1584 amount of refund claimed and paid to each claimant. Such records
 1585 shall be open to public inspection.

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1586 (6)~~(7)~~ Agents of the department are authorized to go upon
 1587 the premises of any refund applicant ~~permitholder~~, or duly
 1588 authorized agent thereof, to make an inspection to ascertain any
 1589 matter connected with the operation of this section or the
 1590 enforcement hereof. However, no agent may enter the dwelling of
 1591 any person without the consent of the occupant or authority from
 1592 a court of competent jurisdiction.

1593 (7)~~(8)~~ If any taxes are refunded erroneously, the
 1594 department shall advise the payee by registered mail of the
 1595 erroneous refund. If the payee fails to reimburse the state
 1596 within 15 days after the receipt of the letter, an action may be
 1597 instituted by the department against such payee in the circuit
 1598 court, and the department shall recover from the payee the
 1599 amount of the erroneous refund plus a penalty of 25 percent.

1600 (8)~~(9)~~ No person shall:

1601 (a) Knowingly make a false or fraudulent statement in ~~an~~
 1602 ~~application for a refund permit or in~~ an application for a
 1603 refund of any taxes under this section;

1604 (b) Fraudulently obtain a refund of such taxes; or

1605 (c) Knowingly aid or assist in making any such false or
 1606 fraudulent statement or claim.

1607 ~~(10) The refund permit of any person who violates any~~
 1608 ~~provision of this section shall be revoked by the department and~~
 1609 ~~may not be reissued until 2 years have elapsed from the date of~~
 1610 ~~such revocation. The refund permit of any person who violates~~
 1611 ~~any other provision of this chapter may be suspended by the~~
 1612 ~~department for any period, in its discretion, not exceeding 6~~
 1613 ~~months.~~

CODING: Words **stricken** are deletions; words **underlined** are additions.

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1614 (9)~~(11)~~ Refund ~~permits and refund~~ application forms shall
 1615 include instructions for dealers and purchasers as to the
 1616 relevant requirements of this section.

1617 Section 8. Section 212.094, Florida Statutes, is created
 1618 to read:

1619 212.094 Purchaser requests for refunds from dealers.--

1620 (1) If a purchaser seeks a refund of or credit from a
 1621 dealer for a tax collected under this chapter by that dealer,
 1622 the purchaser must submit a written request for the refund or
 1623 credit to the dealer in accordance with this section. The
 1624 request must contain all the information necessary for the
 1625 dealer to determine the validity of the purchaser's request.

1626 (2) The purchaser may not take any other action against
 1627 the dealer with respect to the requested refund or credit until
 1628 the dealer has had 60 days following receipt of a completed
 1629 request in which to respond.

1630 (3) Nothing in this section is intended to change the law
 1631 regarding standing to claim a refund.

1632 Section 9. Subsection (3) of section 212.17, Florida
 1633 Statutes, is amended to read:

1634 212.17 Credits for returned goods, rentals, or admissions;
 1635 goods acquired for dealer's own use and subsequently resold;
 1636 additional powers of department.--

1637 (3) A dealer who has paid the tax imposed by this chapter
 1638 on tangible personal property or services may take a credit or
 1639 obtain a refund for any tax paid by the dealer on the unpaid
 1640 balance due on worthless accounts within 12 months following the
 1641 month in which the bad debt has been charged off for federal
 1642 income tax purposes. A dealer who has paid the tax imposed by

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1643 this chapter on tangible personal property or services and who
 1644 is not required to file federal income tax returns may take a
 1645 credit or obtain a refund for any tax paid by the dealer on the
 1646 unpaid balance due on worthless accounts within 12 months
 1647 following the month in which the bad debt is written off as
 1648 uncollectible in the dealer's books and records and would be
 1649 eligible for a bad debt deduction for federal income tax
 1650 purposes if the dealer were required to file a federal income
 1651 tax return.

1652 (a) A dealer that is taking a credit or obtaining a refund
 1653 on worthless accounts shall base the bad debt recovery
 1654 calculation in accordance with 26 U.S.C. s. 166.

1655 (b) Notwithstanding paragraph (a), the amount calculated
 1656 pursuant to 26 U.S.C. s. 166 shall be adjusted to exclude
 1657 financing charges or interest; sales or use taxes charged on the
 1658 purchase price; uncollectible amounts on property that remain in
 1659 the possession of the seller until the full purchase price is
 1660 paid; expenses incurred in attempting to collect any debt; and
 1661 repossessed property.

1662 (c) When the amount of bad debt exceeds the amount of
 1663 taxable sales for the period during which the bad debt is
 1664 written off, a refund claim may be filed in accordance with the
 1665 timing provisions of s. 215.26(2), except that the statute of
 1666 limitations for filing the refund claim shall be measured from
 1667 the due date of the return on which the bad debt could first be
 1668 claimed.

1669 (d) If any accounts so charged off for which a credit or
 1670 refund has been obtained are thereafter in whole or in part paid

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1671 to the dealer, the amount so paid shall be included in the first
 1672 return filed after such collection and the tax paid accordingly.

1673 (e) Where filing responsibilities have been assumed by a
 1674 certified service provider, the certified service provider shall
 1675 claim, on behalf of the seller, any bad debt allowance provided
 1676 by this section. The certified service provider must credit or
 1677 refund to the seller the full amount of any bad debt allowance
 1678 or refund received.

1679 (f) For the purposes of reporting a payment received on a
 1680 previously claimed bad debt, any payments made on a debt or
 1681 account are applied first proportionally to the taxable price of
 1682 the property or service and the sales tax thereon, and secondly
 1683 to interest, service charges, and any other charges.

1684 (g) In situations in which the books and records of the
 1685 party claiming the bad debt allowance support an allocation of
 1686 the bad debts among states that are members of the Streamlined
 1687 Sales and Use Tax Agreement, the allocation is permitted among
 1688 those states.

1689 Section 10. Section 213.052, Florida Statutes, is created
 1690 to read:

1691 213.052 Notice of state rate changes.--

1692 (1) A sales or use tax rate change imposed under chapter
 1693 212 is effective on January 1, April 1, July 1, or October 1.
 1694 The Department of Revenue shall provide notice of such rate
 1695 change to all affected sellers 90 days before the effective date
 1696 of the rate change.

1697 (2) Failure of a seller to receive notice does not relieve
 1698 the seller of its obligation to collect sales or use tax.

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1699 Section 11. Section 213.0521, Florida Statutes, is created
 1700 to read:

1701 213.0521 Effective date of state rate changes.--The
 1702 effective date for services covering a period starting before
 1703 and ending after the statutory effective date shall be as
 1704 follows:

1705 (1) For a rate increase, the new rate shall apply to the
 1706 first billing period starting on or after the effective date.

1707 (2) For a rate decrease, the new rate shall apply to bills
 1708 rendered on or after the effective date.

1709 Section 12. Subsection (11) is added to section 213.21,
 1710 Florida Statutes, to read:

1711 213.21 Informal conferences; compromises.--

1712 (11) Amnesty shall be provided for uncollected or unpaid
 1713 sales or use tax to a seller who registers to pay or to collect
 1714 and remit applicable sales or use tax in accordance with the
 1715 terms of the Streamlined Sales and Use Tax Agreement authorized
 1716 under s. 213.256, if the seller was not registered with the
 1717 Department of Revenue in the 12-month period preceding the
 1718 effective date of participation in the agreement by this state.

1719 (a) The amnesty precludes assessment for uncollected or
 1720 unpaid sales or use tax together with penalty or interest for
 1721 sales made during the period the seller was not registered with
 1722 the Department of Revenue, if registration occurs within 12
 1723 months after the effective date of this state's participation in
 1724 the agreement.

1725 (b) The amnesty is not available to a seller with respect
 1726 to any matter or matters for which the seller received notice of
 1727 the commencement of an audit and which audit is not yet finally

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1728 resolved, including any related administrative and judicial
 1729 processes.

1730 (c) The amnesty is not available for sales or use taxes
 1731 already paid or remitted to the state or to taxes collected by
 1732 the seller.

1733 (d) The amnesty is fully effective, absent the seller's
 1734 fraud or intentional misrepresentation of a material fact, as
 1735 long as the seller continues registration and continues payment
 1736 or collection and remittance of applicable sales or use taxes
 1737 for at least 36 months.

1738 (e) The amnesty is applicable only to sales or use taxes
 1739 due from a seller in its capacity as a seller and not to sales
 1740 or use taxes due from a seller in its capacity as a buyer.

1741 Section 13. Subsections (1) and (7) of section 213.256,
 1742 Florida Statutes, are amended, present subsections (8), (9), and
 1743 (10) of said section are renumbered as subsections (11), (12),
 1744 and (13), respectively, and new subsections (8), (9), (10), and
 1745 (14) are added to said section, to read:

1746 213.256 Simplified Sales and Use Tax Administration Act.--

1747 (1) As used in this section and s. 213.2567, the term:

1748 (a) "Agent" means a person appointed by a seller to
 1749 represent the seller before the member states.

1750 (b) "Agreement" means the Streamlined Sales and Use Tax
 1751 Agreement as amended and adopted on November 12, 2002 ~~January~~
 1752 ~~27, 2001~~, by the Executive Committee of the National Conference
 1753 of State Legislatures.

1754 (c) "Certified automated system" means software certified
 1755 jointly by the states that are signatories to the agreement to
 1756 calculate the tax imposed by each jurisdiction on a transaction,

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1757 determine the amount of tax to remit to the appropriate state,
 1758 and maintain a record of the transaction.

1759 (d) "Certified service provider" means an agent certified
 1760 under jointly by the states that are signatories to the
 1761 agreement to perform all of the seller's sales tax functions
 1762 other than the seller's obligation to remit tax on its own
 1763 purchases.

1764 (e)(a) "Department" means the Department of Revenue.

1765 (f) "Model 1 seller" means a seller that has selected a
 1766 certified service provider as its agent to perform all the
 1767 seller's sales and use tax functions other than the seller's
 1768 obligation to remit tax on its own purchases.

1769 (g) "Model 2 seller" means a seller that has selected a
 1770 certified automated system to perform part of its sales and use
 1771 tax functions, but retains responsibility for remitting the tax.

1772 (h) "Model 3 seller" means a seller that has sales in at
 1773 least five member states, has total annual sales revenue of at
 1774 least \$500 million, has a proprietary system that calculates the
 1775 amount of tax due each jurisdiction, and has entered into a
 1776 performance agreement with the member states which establishes a
 1777 tax performance standard for the seller. As used in this
 1778 subsection, a seller includes an affiliated group of sellers
 1779 using the same proprietary system.

1780 (i)(e) "Person" means an individual, trust, estate,
 1781 fiduciary, partnership, limited liability company, limited
 1782 liability partnership, corporation, or any other legal entity.

1783 (j) "Registered under this agreement" means registration
 1784 by a seller with the member states under the central
 1785 registration system.

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1786 ~~(k)(f)~~ "Sales tax" means the tax levied under chapter 212.

1787 ~~(l)(g)~~ "Seller" means any person making sales, leases, or
 1788 rentals of personal property or services.

1789 ~~(m)(h)~~ "State" means any state of the United States and
 1790 the District of Columbia.

1791 ~~(n)(i)~~ "Use tax" means the tax levied under chapter 212.

1792 (7)(a) The agreement authorized by this act binds and
 1793 inures only to the benefit of this state and the other member
 1794 states. No person, other than a member state, is an intended
 1795 beneficiary of the agreement. Any benefit to a person other than
 1796 a state is established by the laws of this state and of other
 1797 member states and not by the terms of the agreement.

1798 (b) Consistent with paragraph (a), no person has any cause
 1799 of action or defense under the agreement or by virtue of this
 1800 state's approval of the agreement. No person may challenge, in
 1801 any action brought under any provision of law, any action or
 1802 inaction by any department, agency, or other instrumentality of
 1803 this state, or of any political subdivision of this state, on
 1804 the ground that the action or inaction is inconsistent with the
 1805 agreement.

1806 (c) No law of this state, or the application thereof, may
 1807 be declared invalid as to any person or circumstance on the
 1808 ground that the provision or application is inconsistent with
 1809 the agreement.

1810 (d) The determinations pertaining to the agreement
 1811 authorized by this act which are made by the member states are
 1812 final when rendered and are not subject to any protest, appeal,
 1813 or review.

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1814 (8) Authority to administer the agreement authorized under
 1815 this act shall rest with the governing board comprised of
 1816 representatives of each member state. Each member state may
 1817 appoint up to four representatives to the governing board. This
 1818 state shall be represented by three delegates, one appointed by
 1819 the President of the Senate, one appointed by the Speaker of the
 1820 House of Representatives, and the executive director of the
 1821 department or his or her designee.

1822 (9) With respect to each member state, the agreement
 1823 authorized by this act shall continue in full force and effect
 1824 until a member state withdraws its membership or is expelled. A
 1825 member state's withdrawal or expulsion is not effective until
 1826 the first day of a calendar quarter after a minimum of 60 days'
 1827 notice. A member state shall submit notice of its intent to
 1828 withdraw from the agreement to the governing board and the chief
 1829 executive of each member state's tax agency. The member state
 1830 shall provide public notice of its intent to withdraw and post
 1831 its notice of intent to withdraw from the agreement to the
 1832 governing board and the chief executive of each member state's
 1833 tax agency. The member state shall provide public notice of its
 1834 intent to withdraw and post its notice of intent to withdraw on
 1835 its website. The withdrawal by or expulsion of a state does not
 1836 affect the validity of the agreement among other member states.
 1837 A state that withdraws or is expelled from the agreement remains
 1838 liable for its share of any financial or contractual obligations
 1839 that were incurred by the governing board before the effective
 1840 date of that state's withdrawal or expulsion. The appropriate
 1841 share of any financial or contractual obligation shall be
 1842 determined by the state and the governing board in good faith

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1843 based on the relative benefits received and burdens incurred by
 1844 the parties.

1845 (10) A member state that is found to be out of compliance
 1846 with the agreement authorized by this act may be imposed with
 1847 sanctions, which include expulsion or other penalties as
 1848 determined by the governing board.

1849 (14) Each member state shall annually recertify that such
 1850 state is in compliance with the agreement authorized under this
 1851 act. Each member state shall make a recertification to the
 1852 governing board on or before August 1 of each year after the
 1853 year of the state's entry. In its annual recertification, the
 1854 state shall include any changes in its statutes, rules or
 1855 regulations, or other authorities that could affect its
 1856 compliance with the terms of the agreement. The recertification
 1857 shall be signed by the executive director of the department. A
 1858 member state that cannot recertify its compliance with the
 1859 agreement shall submit a statement of noncompliance to the
 1860 governing board. The statement of noncompliance shall include
 1861 any action or decision that takes such state out of compliance
 1862 with the agreement and the steps it will take to return to
 1863 compliance. Each member state shall post its annual
 1864 recertification or statement of noncompliance on that state's
 1865 website.

1866 Section 14. Section 213.2567, Florida Statutes, is created
 1867 to read:

1868 213.2567 Simplified sales and use tax registration,
 1869 certification, liability, audit.--

1870 (1) A seller that registers pursuant to the agreement
 1871 agrees to collect and remit sales and use taxes for all taxable

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1872 sales into the member states, including member states joining
 1873 after the seller's registration. Withdrawal or revocation of a
 1874 member state shall not relieve a seller of its responsibility to
 1875 remit taxes previously or subsequently collected on behalf of
 1876 the state.

1877 (a) When registering, the seller may select a model 1,
 1878 model 2, or model 3 method of remittance or other method allowed
 1879 by state law to remit the taxes collected.

1880 (b) A seller may be registered by an agent. Such
 1881 appointment shall be in writing and submitted to a member state.

1882 (2)(a) A certified service provider is the agent of a
 1883 model 1 seller with whom the certified service provider has
 1884 contracted for the collection and remittance of sales and use
 1885 taxes. As the model 1 seller's agent, the certified service
 1886 provider is liable for sales and use tax due each member state
 1887 on all sales transactions it processes for the model 1 seller
 1888 except as set out in paragraph (b).

1889 (b) A model 1 seller is not liable to the state for sales
 1890 or use tax due on transactions processed by the certified
 1891 service provider unless the model 1 seller has misrepresented
 1892 the type of items it sells or has committed fraud. In the
 1893 absence of probable cause to believe that the model 1 seller has
 1894 committed fraud or made a material misrepresentation, the model
 1895 1 seller is not subject to audit on the transactions processed
 1896 by the certified service provider. A model 1 seller is subject
 1897 to audit for transactions that have not been processed by the
 1898 certified service provider. The member states acting jointly may
 1899 perform a system check of the model 1 seller and review the
 1900 model 1 seller's procedures to determine if the certified

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1901 service provider's system is functioning properly and to
 1902 determine the extent to which the model 1 seller's transactions
 1903 are being processed by the certified service provider.

1904 (3) A person that provides a certified automated system is
 1905 responsible for the proper functioning of that system and is
 1906 liable to the state for underpayments of tax attributable to
 1907 errors in the functioning of the certified automated system. A
 1908 model 2 seller that uses a certified automated system remains
 1909 responsible and is liable to the state for reporting and
 1910 remitting tax.

1911 (4) A model 3 seller is liable for the failure of the
 1912 proprietary system to meet the performance standard.

1913 (5) The governing board may certify a person as a
 1914 certified service provider if the person meets all of the
 1915 following requirements:

1916 (a) The person uses a certified automated system;

1917 (b) The person integrates its certified automated system
 1918 with the system of a seller for whom the person collects tax so
 1919 that the tax due on a sale is determined at the time of the
 1920 sale;

1921 (c) The person agrees to remit the taxes it collects at
 1922 the time and in the manner specified by the member states;

1923 (d) The person agrees to file returns on behalf of the
 1924 sellers for whom it collects tax;

1925 (e) The person agrees to protect the privacy of tax
 1926 information it obtains in accordance with s. 213.053; and

1927 (f) The person enters into a contract with the member
 1928 states and agrees to comply with the terms of the contract.

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1929 (6) The governing board may certify a software program as
 1930 a certified automated system if the governing board determines
 1931 that the program meets all of the following requirements:

1932 (a) The program determines the applicable state and local
 1933 sales and use tax rate for a transaction in accordance with s.
 1934 212.06(3) and (4);

1935 (b) The program determines whether or not an item is
 1936 exempt from tax;

1937 (c) The program determines the amount of tax to be
 1938 remitted for each taxpayer for a reporting period;

1939 (d) The program can generate reports and returns as
 1940 required by the governing board; and

1941 (e) The program meets any other requirement set by the
 1942 governing board.

1943 (7) The governing board may establish one or more sales
 1944 tax performance standards for model 3 sellers that meet the
 1945 eligibility criteria set by the governing board and that
 1946 developed a proprietary system to determine the amount of sales
 1947 and use tax due on transactions.

1948 (8) Disclosure of information necessary under this section
 1949 must be pursuant to a written agreement between the executive
 1950 director of the department or his or her designee and the
 1951 certified service provider. The certified service provider is
 1952 bound by the same requirements of confidentiality as the
 1953 department. Breach of confidentiality is a misdemeanor of the
 1954 first degree, punishable as provided in s. 775.082 or s.
 1955 775.083.

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1956 Section 15. Paragraph (c) of subsection (2) and paragraph
 1957 (c) of subsection (3) of section 212.055, Florida Statutes, are
 1958 amended to read:

1959 212.055 Discretionary sales surtaxes; legislative intent;
 1960 authorization and use of proceeds.--It is the legislative intent
 1961 that any authorization for imposition of a discretionary sales
 1962 surtax shall be published in the Florida Statutes as a
 1963 subsection of this section, irrespective of the duration of the
 1964 levy. Each enactment shall specify the types of counties
 1965 authorized to levy; the rate or rates which may be imposed; the
 1966 maximum length of time the surtax may be imposed, if any; the
 1967 procedure which must be followed to secure voter approval, if
 1968 required; the purpose for which the proceeds may be expended;
 1969 and such other requirements as the Legislature may provide.
 1970 Taxable transactions and administrative procedures shall be as
 1971 provided in s. 212.054.

1972 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

1973 (c) Pursuant to s. 212.054~~(6)~~(4), the proceeds of the
 1974 surtax levied under this subsection shall be distributed to the
 1975 county and the municipalities within such county in which the
 1976 surtax was collected, according to:

1977 1. An interlocal agreement between the county governing
 1978 authority and the governing bodies of the municipalities
 1979 representing a majority of the county's municipal population,
 1980 which agreement may include a school district with the consent
 1981 of the county governing authority and the governing bodies of
 1982 the municipalities representing a majority of the county's
 1983 municipal population; or

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1984 2. If there is no interlocal agreement, according to the
 1985 formula provided in s. 218.62.

1986
 1987 Any change in the distribution formula must take effect on the
 1988 first day of any month that begins at least 60 days after
 1989 written notification of that change has been made to the
 1990 department.

1991 (3) SMALL COUNTY SURTAX.--

1992 (c) Pursuant to s. 212.054(6)~~(4)~~, the proceeds of the
 1993 surtax levied under this subsection shall be distributed to the
 1994 county and the municipalities within the county in which the
 1995 surtax was collected, according to:

1996 1. An interlocal agreement between the county governing
 1997 authority and the governing bodies of the municipalities
 1998 representing a majority of the county's municipal population,
 1999 which agreement may include a school district with the consent
 2000 of the county governing authority and the governing bodies of
 2001 the municipalities representing a majority of the county's
 2002 municipal population; or

2003 2. If there is no interlocal agreement, according to the
 2004 formula provided in s. 218.62.

2005
 2006 Any change in the distribution formula shall take effect on the
 2007 first day of any month that begins at least 60 days after
 2008 written notification of that change has been made to the
 2009 department.

2010 Section 16. Paragraph (c) of subsection (1) of section
 2011 212.07, Florida Statutes, is amended to read:

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2012 212.07 Sales, storage, use tax; tax added to purchase
 2013 price; dealer not to absorb; liability of purchasers who cannot
 2014 prove payment of the tax; penalties; general exemptions.--

2015 (1)

2016 (c) Unless the purchaser of tangible personal property
 2017 that is incorporated into tangible personal property
 2018 manufactured, produced, compounded, processed, or fabricated for
 2019 one's own use and subject to the tax imposed under s.

2020 212.06(1)(b) or is purchased for export under s.

2021 212.06~~(4)~~~~(5)~~(a)1. extends a certificate in compliance with the
 2022 rules of the department, the dealer shall himself or herself be
 2023 liable for and pay the tax.

2024 Section 17. Subsection (1) of section 212.15, Florida
 2025 Statutes, is amended to read:

2026 212.15 Taxes declared state funds; penalties for failure
 2027 to remit taxes; due and delinquent dates; judicial review.--

2028 (1) The taxes imposed by this chapter shall, except as
 2029 provided in s. 212.06~~(4)~~~~(5)~~(a)2.e., become state funds at the
 2030 moment of collection and shall for each month be due to the
 2031 department on the first day of the succeeding month and be
 2032 delinquent on the 21st day of such month. All returns postmarked
 2033 after the 20th day of such month are delinquent.

2034 Section 18. Subsection (6) of section 212.183, Florida
 2035 Statutes, is amended to read:

2036 212.183 Rules for self-accrual of sales tax.--The
 2037 Department of Revenue is authorized to provide by rule for self-
 2038 accrual of the sales tax under one or more of the following
 2039 circumstances:

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2040 (6) When the purchaser makes purchases of promotional
 2041 materials as defined in s. 212.06(10)(11) and at the time of
 2042 purchase, the purchaser does not know whether the materials will
 2043 be exported outside this state.

2044 Section 19. Subsection (6) of section 212.0596, Florida
 2045 Statutes, is repealed:

2046 212.0596 Taxation of mail order sales.--

2047 ~~(6) Notwithstanding other provisions of law, a dealer who~~
 2048 ~~makes a mail order sale in this state is exempt from collecting~~
 2049 ~~and remitting any local option surtax on the sale, unless the~~
 2050 ~~dealer is located in a county that imposes a surtax within the~~
 2051 ~~meaning of s. 212.054(3)(a), the order is placed through the~~
 2052 ~~dealer's location in such county, and the property purchased is~~
 2053 ~~delivered into such county or into another county in this state~~
 2054 ~~that levies the surtax, in which case the provisions of s.~~
 2055 ~~212.054(3)(a) are applicable.~~

2056 Section 20. It is the intent of the Legislature to further
 2057 amend chapter 212, Florida Statutes, to make the changes
 2058 necessary to be in compliance with the provisions of the
 2059 Streamlined Sales and Use Tax Agreement which take effect on
 2060 December 31, 2005, and to address the prohibition on multiple
 2061 state rates in a revenue-neutral manner.

2062 Section 21. The executive director of the Department of
 2063 Revenue is authorized, and all conditions are deemed met, to
 2064 adopt emergency rules, under ss. 120.536(1) and 120.54(4),
 2065 Florida Statutes, to implement this act. Notwithstanding any
 2066 other provision of law, such emergency rules shall remain
 2067 effective for 6 months after the date of adoption and may be

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2068 renewed during the pendency of procedures to adopt rules

2069 addressing the subject of the emergency rules.

2070 Section 22. This act shall take effect January 1, 2005.