



1 ~~depreciation, interest, maintenance, repair, and other~~  
2 ~~expenses directly attributable to the operation of such~~  
3 ~~system. For purposes of this chapter, the depreciation expense~~  
4 ~~included in actual cost is the depreciation expense claimed~~  
5 ~~for federal income tax purposes. The total amount of any~~  
6 ~~payment required by a lease or rental contract or agreement~~  
7 ~~must be included within the actual cost of operating the~~  
8 ~~substitute communications system.~~

9       ~~(1)(2)~~ "Cable service" means the transmission of  
10 video, audio, or other programming service to purchasers, and  
11 the purchaser interaction, if any, required for the selection  
12 or use of ~~any~~ such programming service, regardless of whether  
13 the programming is transmitted over facilities owned or  
14 operated by the cable service provider or over facilities  
15 owned or operated by one or more other dealers of  
16 communications services. The term includes point-to-point and  
17 point-to-multipoint distribution services by which programming  
18 is transmitted or broadcast by microwave or other equipment  
19 directly to the purchaser's premises, but does not include  
20 direct-to-home satellite service. The term includes basic,  
21 extended, premium, pay-per-view, digital, and music services.

22       ~~(2)(3)~~ "Communications services" means the  
23 transmission, conveyance, or routing of voice, data, audio,  
24 video, or any other information or signals, including cable  
25 services, to a point, or between or among points, by or  
26 through any electronic, radio, satellite, cable, optical,  
27 microwave, or other medium or method now in existence or  
28 hereafter devised, regardless of the protocol used for the  
29 ~~such~~ transmission or conveyance. The term does not include:

30           (a) Information services.

31

1 (b) Installation or maintenance of wiring or equipment  
2 on a customer's premises.

3 (c) The sale or rental of tangible personal property.

4 (d) The sale of advertising, including, but not  
5 limited to, directory advertising.

6 (e) Bad check charges.

7 (f) Late payment charges.

8 (g) Billing and collection services.

9 (h) Internet access service, electronic mail service,  
10 electronic bulletin board service, or similar on-line computer  
11 services.

12 ~~(3)~~~~(4)~~ "Dealer" means a person registered with the  
13 department as a provider of communications services in this  
14 state.

15 ~~(4)~~~~(5)~~ "Department" means the Department of Revenue.

16 ~~(5)~~~~(6)~~ "Direct-to-home satellite service" has the  
17 meaning ascribed in the Communications Act of 1934, 47 U.S.C.  
18 s. 303(v).

19 ~~(6)~~~~(7)~~ "Information service" means the offering of a  
20 capability for generating, acquiring, storing, transforming,  
21 processing, retrieving, using, or making available information  
22 via communications services, including, but not limited to,  
23 electronic publishing, web-hosting service, and end-user 900  
24 number service. The term does not include any video, audio, or  
25 other programming service that uses point-to-multipoint  
26 distribution by which programming is delivered, transmitted,  
27 or broadcast by any means, including any interaction that may  
28 be necessary for selecting and using the service, regardless  
29 of whether the programming is delivered, transmitted, or  
30 broadcast over facilities owned or operated by the seller or  
31 another, or whether denominated as cable service or as basic,

1 extended, premium, pay-per-view, digital, music, or two-way  
2 cable service.

3 ~~(7)~~~~(8)~~ "Mobile communications service" means  
4 commercial mobile radio service, as defined in 47 C.F.R. s.  
5 20.3 as in effect on June 1, 1999. The term does not include  
6 air-ground radiotelephone service as defined in 47 C.F.R. s.  
7 22.99 as in effect on June 1, 1999.

8 ~~(8)~~~~(9)~~ "Person" has the meaning ascribed in s. 212.02.

9 ~~(9)~~~~(10)~~ "Prepaid calling arrangement" means the  
10 separately stated retail sale by advance payment of  
11 communications services that consist exclusively of telephone  
12 calls originated by using an access number, authorization  
13 code, or other means that may be manually, electronically, or  
14 otherwise entered, and that are sold in predetermined units or  
15 dollars of which the number declines with use in a known  
16 amount.

17 ~~(10)~~~~(11)~~ "Purchaser" means the person paying for or  
18 obligated to pay for communications services.

19 ~~(11)~~~~(12)~~ "Retail sale" means the sale of  
20 communications services for any purpose other than for resale  
21 or for use as a component part of or for integration into  
22 communications services to be resold in the ordinary course of  
23 business. However, any sale for resale must comply with s.  
24 202.16(2) and the rules adopted thereunder.

25 ~~(12)~~~~(13)~~ "Sale" means the provision of communications  
26 services for a consideration.

27 ~~(13)~~~~(14)~~ "Sales price" means the total amount charged  
28 in money or other consideration by a dealer for the sale of  
29 the right or privilege of using communications services in  
30 this state, including any property or other services that are  
31 part of the sale. The sales price of communications services

1 ~~may shall~~ not be reduced by any separately identified  
2 components of the charge that constitute expenses of the  
3 dealer, including, but not limited to, sales taxes on goods or  
4 services purchased by the dealer, property taxes, taxes  
5 measured by net income, and universal-service fund fees.

6 (a) The sales price of communications services shall  
7 include, whether or not separately stated, charges for any of  
8 the following:

- 9 1. The connection, movement, change, or termination of  
10 communications services.
- 11 2. The detailed billing of communications services.
- 12 3. The sale of directory listings in connection with a  
13 communications service.
- 14 4. Central office and custom calling features.
- 15 5. Voice mail and other messaging service.
- 16 6. Directory assistance.
- 17 7. The service of sending or receiving a document  
18 commonly referred to as a facsimile or "fax," except when  
19 performed during the course of providing professional or  
20 advertising services.

21 (b) The sales price of communications services does  
22 not include charges for any of the following:

- 23 1. Any excise tax, sales tax, or similar tax levied by  
24 the United States or any state or local government on the  
25 purchase, sale, use, or consumption of any communications  
26 service, including, but not limited to, any tax imposed under  
27 this chapter or chapter 203 which is permitted or required to  
28 be added to the sales price of such service, if the tax is  
29 stated separately.
- 30 2. Any fee or assessment levied by the United States  
31 or any state or local government, including, but not limited

1 to, regulatory fees and emergency telephone surcharges, which  
2 is required to be added to the price of such service if the  
3 fee or assessment is separately stated.

4 3. Communications services paid for by inserting coins  
5 into coin-operated communications devices available to the  
6 public.

7 4. The sale or recharge of a prepaid calling  
8 arrangement.

9 5. The provision of air-to-ground communications  
10 services, defined as a radio service provided to purchasers  
11 while on board an aircraft.

12 6. A dealer's internal use of communications services  
13 in connection with its business of providing communications  
14 services.

15 7. Charges for property or other services that are not  
16 part of the sale of communications services, if such charges  
17 are stated separately from the charges for communications  
18 services.

19 ~~(14)~~~~(15)~~ "Service address" means:

20 (a) Except as otherwise provided in this section, the  
21 location of the communications equipment from which  
22 communications services originate or at which communications  
23 services are received by the customer. In the case of a  
24 communications service paid through a credit or payment  
25 mechanism that does not relate to a service address, such as a  
26 bank, travel, debit, or credit card, and in the case of  
27 third-number and calling-card calls, the service address is  
28 the address of the central office, as determined by the area  
29 code and the first three digits of the seven-digit originating  
30 telephone number.

31

1           (b) In the case of cable services and direct-to-home  
2 satellite services, the location where the customer receives  
3 the services in this state.

4           (c) In the case of mobile communications services, the  
5 customer's place of primary use.

6           ~~(16) "Substitute communications system" means any~~  
7 ~~telephone system, or other system capable of providing~~  
8 ~~communications services, which a person purchases, installs,~~  
9 ~~rents, or leases for his or her own use to provide himself or~~  
10 ~~herself with services used as a substitute for any switched~~  
11 ~~service or dedicated facility by which a dealer of~~  
12 ~~communications services provides a communication path.~~

13           (15)~~(17)~~ "Unbundled network element" means a network  
14 element, as defined in 47 U.S.C. s. 153(29), to which access  
15 is provided on an unbundled basis under ~~pursuant to~~ 47 U.S.C.  
16 s. 251(c)(3).

17           ~~(16)~~(18) "Private communications service" means a  
18 communications service that entitles the subscriber or user to  
19 exclusive or priority use of a communications channel or group  
20 of channels between or among channel termination points,  
21 regardless of the manner in which the ~~such~~ channel or channels  
22 are connected, and includes switching capacity, extension  
23 lines, stations, and any other associated services which are  
24 provided in connection with the use of such channel or  
25 channels.

26           ~~(17)~~~~(19)~~(a) "Customer" means:

- 27           1. The person or entity that contracts with the home  
28 service provider for mobile communications services; or  
29           2. If the end user of mobile communications services  
30 is not the contracting party, the end user of the mobile  
31

1 | communications service. This subparagraph only applies for the  
2 | purpose of determining the place of primary use.

3 |       (b) "Customer" does not include:

- 4 |           1. A reseller of mobile communications services; or  
5 |           2. A serving carrier under an agreement to serve the  
6 | customer outside the home service provider's licensed service  
7 | area.

8 |       ~~(18)~~(20) "Enhanced zip code" means a United States  
9 | postal zip code of 9 or more digits.

10 |       ~~(19)~~(21) "Home service provider" means the  
11 | facilities-based carrier or reseller with which the customer  
12 | contracts for the provision of mobile communications services.

13 |       ~~(20)~~(22) "Licensed service area" means the geographic  
14 | area in which the home service provider is authorized by law  
15 | or contract to provide mobile communications service to the  
16 | customer.

17 |       ~~(21)~~(23) "Place of primary use" means the street  
18 | address representative of where the customer's use of the  
19 | mobile communications service primarily occurs, which must be:

- 20 |           (a) The residential street address or the primary  
21 | business street address of the customer; and  
22 |           (b) Within the licensed service area of the home  
23 | service provider.

24 |       ~~(22)~~(24)(a) "Reseller" means a provider who purchases  
25 | communications services from another communications service  
26 | provider and then resells, uses as a component part of, or  
27 | integrates the purchased services into a mobile communications  
28 | service.

29 |       (b) "Reseller" does not include a serving carrier with  
30 | which a home service provider arranges for the services to its  
31 |



1 customers outside the home service provider's licensed service  
2 area.

3 ~~(23)~~~~(25)~~ "Serving carrier" means a facilities-based  
4 carrier providing mobile communications service to a customer  
5 outside a home service provider's or reseller's licensed  
6 service area.

7 Section 2. Subsections (1) and (2) of section 202.12,  
8 Florida Statutes, are amended to read:

9 202.12 Sales of communications services.--The  
10 Legislature finds that every person who engages in the  
11 business of selling communications services at retail in this  
12 state is exercising a taxable privilege. It is the intent of  
13 the Legislature that the tax imposed by chapter 203 be  
14 administered as provided in this chapter.

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

18 (a) Except as otherwise provided in this subsection,  
19 at a rate of 6.8 percent applied to the sales price of the  
20 communications service which:

- 21 1. Originates and terminates in this state, or
- 22 2. Originates or terminates in this state and is  
23 charged to a service address in this state,

24  
25 when sold at retail, computed on each taxable sale for the  
26 purpose of remitting the tax due. The gross receipts tax  
27 imposed by chapter 203 shall be collected on the same taxable  
28 transactions and remitted with the tax imposed by this  
29 paragraph. If no tax is imposed by this paragraph by reason of  
30 s. 202.125(1), the tax imposed by chapter 203 shall  
31 nevertheless be collected and remitted in the manner and at

1 the time prescribed for tax collections and remittances under  
2 this chapter.

3 ~~(b) At the rate set forth in paragraph (a) on the~~  
4 ~~actual cost of operating a substitute communications system,~~  
5 ~~to be paid in accordance with s. 202.15. This paragraph does~~  
6 ~~not apply to the use by any dealer of his or her own~~  
7 ~~communications system to conduct a business of providing~~  
8 ~~communications services or any communications system operated~~  
9 ~~by a county, a municipality, the state, or any political~~  
10 ~~subdivision of the state. The gross receipts tax imposed by~~  
11 ~~chapter 203 shall be applied to the same costs, and remitted~~  
12 ~~with the tax imposed by this paragraph.~~

13 (b)(c) At the rate of 10.8 percent on the retail sales  
14 price of any direct-to-home satellite service received in this  
15 state. The proceeds of the tax imposed under this paragraph  
16 shall be accounted for and distributed in accordance with s.  
17 202.18(2). The gross receipts tax imposed by chapter 203 shall  
18 be collected on the same taxable transactions and remitted  
19 with the tax imposed by this paragraph.

20 (c)(d) At the rate set forth in paragraph (a) on the  
21 sales price of private communications services provided within  
22 this state, which shall be determined in accordance with the  
23 following provisions:

- 24 1. Any charge with respect to a channel termination  
25 point located within this state;
- 26 2. Any charge for the use of a channel between two  
27 channel termination points located in this state; and
- 28 3. Where channel termination points are located both  
29 within and outside of this state:

30  
31

1 a. If any segment between two such channel termination  
2 points is separately billed, 50 percent of the ~~such~~ charge;  
3 and

4 b. If any segment of the circuit is not separately  
5 billed, an amount equal to the total charge for such circuit  
6 multiplied by a fraction, the numerator of which is the number  
7 of channel termination points within this state and the  
8 denominator of which is the total number of channel  
9 termination points of the circuit.

10  
11 The gross receipts tax imposed by chapter 203 shall be  
12 collected on the same taxable transactions and remitted with  
13 the tax imposed by this paragraph.

14 ~~(d)(e)~~ At the rate set forth in paragraph (a) applied  
15 to the sales price of all mobile communications services  
16 deemed to be provided to a customer by a home service provider  
17 under ~~pursuant to~~ s. 117(a) of the Mobile Telecommunications  
18 Sourcing Act, Pub. L. No. 106-252, if the ~~such~~ customer's  
19 service address is located within this state.

20 (2) A dealer of taxable communications services shall  
21 bill, collect, and remit the taxes on communications services  
22 imposed under ~~pursuant to~~ chapter 203 and this section at a  
23 combined rate that is the sum of the rate of tax on  
24 communications services prescribed in chapter 203 and the  
25 applicable rate of tax prescribed in this section. ~~Each dealer~~  
26 ~~subject to the tax provided in paragraph (1)(b) shall also~~  
27 ~~remit the taxes imposed pursuant to chapter 203 and this~~  
28 ~~section on a combined basis.~~ However, a dealer shall, in  
29 reporting each remittance to the department, identify the  
30 portion thereof which consists of taxes remitted under

31

1 ~~pursuant to~~ chapter 203. Return forms prescribed by the  
2 department shall facilitate the ~~such~~ reporting.

3           Section 3. Paragraph (a) of subsection (1) of section  
4 202.16, Florida Statutes, is amended to read:

5           202.16 Payment.--The taxes imposed or administered  
6 under this chapter and chapter 203 shall be collected from all  
7 dealers of taxable communications services on the sale at  
8 retail in this state of communications services taxable under  
9 this chapter and chapter 203. The full amount of the taxes on  
10 a credit sale, installment sale, or sale made on any kind of  
11 deferred payment plan is due at the moment of the transaction  
12 in the same manner as a cash sale.

13           (1)(a) ~~Except as otherwise provided in ss.~~  
14 ~~202.12(1)(b) and 202.15,~~ The taxes collected under this  
15 chapter and chapter 203 shall be paid by the purchaser of the  
16 communications service and shall be collected from the ~~such~~  
17 person by the dealer of communications services.

18           Section 4. Subsection (6) of section 202.17, Florida  
19 Statutes, is amended to read:

20           202.17 Registration.--

21           (6) In addition to the certificate of registration,  
22 the department shall provide to each newly registered dealer  
23 an initial resale certificate that is valid for the remainder  
24 of the period of issuance. The department shall provide to  
25 each active dealer, ~~except persons registered pursuant to s.~~  
26 ~~202.15,~~ an annual resale certificate. As used in this section,  
27 "active dealer" means a person who is registered with the  
28 department and who is required to file a return at least once  
29 during each applicable reporting period.

30           Section 5. Subsections (1) and (2) of section 202.18,  
31 Florida Statutes, are amended to read:

1           202.18 Allocation and disposition of tax  
2 proceeds.--The proceeds of the communications services taxes  
3 remitted under this chapter shall be treated as follows:  
4           (1) The proceeds of the taxes remitted under s.  
5 202.12(1)(a) ~~and (b)~~ shall be divided as follows:  
6           (a) The portion of the such proceeds which constitutes  
7 gross receipts taxes, imposed at the rate prescribed in  
8 chapter 203, shall be deposited as provided by law and in  
9 accordance with s. 9, Art. XII of the State Constitution.  
10           (b) The remaining portion shall be distributed  
11 according to s. 212.20(6).  
12           (2) The proceeds of the taxes remitted under s.  
13 202.12(1)(b) ~~s. 202.12(1)(c)~~ shall be divided as follows:  
14           (a) The portion of the such proceeds which constitutes  
15 gross receipts taxes, imposed at the rate prescribed in  
16 chapter 203, shall be deposited as provided by law and in  
17 accordance with s. 9, Art. XII of the State Constitution.  
18           (b) Sixty-three percent of the remainder shall be  
19 allocated to the state and distributed under ~~pursuant to~~ s.  
20 212.20(6), except that the proceeds allocated under ~~pursuant~~  
21 ~~to~~ s. 212.20(6)(d)3. shall be prorated to the participating  
22 counties in the same proportion as that month's collection of  
23 the taxes and fees imposed under ~~pursuant to~~ chapter 212 and  
24 paragraph (1)(b).  
25           (c)1. During each calendar year, the remaining portion  
26 of the such proceeds shall be transferred to the Local  
27 Government Half-cent Sales Tax Clearing Trust Fund and shall  
28 be allocated in the same proportion as the allocation of total  
29 receipts of the half-cent sales tax under s. 218.61 and the  
30 emergency distribution under s. 218.65 in the prior state  
31 fiscal year.

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

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

10           4. The department shall distribute the appropriate  
11 amount to each municipality and county each month at the same  
12 time that local communications services taxes are distributed  
13 under ~~pursuant to~~ subsection (3).

14           Section 6. Subsection (7) of section 202.19, Florida  
15 Statutes, is repealed.

16           Section 7. Paragraph (a) of subsection (1) of section  
17 203.01, Florida Statutes, is amended to read:

18           203.01 Tax on gross receipts for utility and  
19 communications services.--

20           (1)(a)1. Every person who ~~that~~ receives payment for  
21 any utility service shall report by the last day of each month  
22 to the Department of Revenue, under oath of the secretary or  
23 some other officer of the ~~such~~ person, the total amount of  
24 gross receipts derived from business done within this state,  
25 or between points within this state, for the preceding month  
26 and, at the same time, shall pay into the State Treasury an  
27 amount equal to a percentage of the ~~such~~ gross receipts at the  
28 rate set forth in paragraph (b). The ~~Such~~ collections shall be  
29 certified by the Chief Financial Officer upon the request of  
30 the State Board of Education.

31

1           2. A tax is levied on communications services as  
2 defined in s. 203.11(2) ~~s. 202.11(3)~~. ~~The Such~~ tax shall be  
3 applied to the same services and transactions as are subject  
4 to taxation under chapter 202, and to communications services  
5 that are subject to the exemption provided in s. 202.125(1).  
6 ~~The Such~~ tax shall be applied to the sales price of  
7 communications services when sold at retail ~~and to the actual~~  
8 ~~cost of operating substitute communications systems~~, as such  
9 terms are defined in s. 202.11, shall be due and payable at  
10 the same time as the taxes imposed under ~~pursuant to~~ chapter  
11 202, and shall be administered and collected under ~~pursuant to~~  
12 the provisions of chapter 202.

13           Section 8. Section 624.105, Florida Statutes, is  
14 amended to read:

15           624.105 Waiver of customer liability.--Any regulated  
16 company as defined in s. 350.111, any electric utility as  
17 defined in s. 366.02(2), any utility as defined in s.  
18 367.021(12) or s. 367.022(2) and (7), and any provider of  
19 communications services as defined in s. 202.11(2) ~~s.~~  
20 ~~202.11(3)~~ may charge for and include an optional waiver of  
21 liability provision in their customer contracts under which  
22 the entity agrees to waive all or a portion of the customer's  
23 liability for service from the entity for a defined period in  
24 the event of the customer's call to active military service,  
25 death, disability, involuntary unemployment, qualification for  
26 family leave, or similar qualifying event or condition. The  
27 ~~Such~~ provisions may not be effective in the customer's  
28 contract with the entity unless affirmatively elected by the  
29 customer. A No such provision may not shall constitute  
30 insurance so long as the provision is a contract between the  
31 entity and its customer.

