

1 respectively, and present subsections (1) and (16) of that
2 section are amended to read:

3 202.11 Definitions.--As used in this chapter:

4 ~~(1) "Actual cost of operating a substitute~~
5 ~~communications system" includes, but is not limited to,~~
6 ~~depreciation, interest, maintenance, repair, and other~~
7 ~~expenses directly attributable to the operation of such~~
8 ~~system. For purposes of this chapter, the depreciation expense~~
9 ~~included in actual cost is the depreciation expense claimed~~
10 ~~for federal income tax purposes. The total amount of any~~
11 ~~payment required by a lease or rental contract or agreement~~
12 ~~must be included within the actual cost of operating the~~
13 ~~substitute communications system.~~

14 ~~(16) "Substitute communications system" means any~~
15 ~~telephone system, or other system capable of providing~~
16 ~~communications services, which a person purchases, installs,~~
17 ~~rents, or leases for his or her own use to provide himself or~~
18 ~~herself with services used as a substitute for any switched~~
19 ~~service or dedicated facility by which a dealer of~~
20 ~~communications services provides a communication path.~~

21 Section 2. Paragraphs (c), (d), and (e) of subsection
22 (1) of section 202.12, Florida Statutes, are redesignated as
23 paragraphs (b), (c), and (d), respectively, and present
24 paragraph (b) of subsection (1) and subsection (2) of that
25 section are amended to read:

26 202.12 Sales of communications services.--The
27 Legislature finds that every person who engages in the
28 business of selling communications services at retail in this
29 state is exercising a taxable privilege. It is the intent of
30 the Legislature that the tax imposed by chapter 203 be
31 administered as provided in this chapter.

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

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

14 (2) A dealer of taxable communications services shall
15 bill, collect, and remit the taxes on communications services
16 imposed pursuant to chapter 203 and this section at a combined
17 rate that is the sum of the rate of tax on communications
18 services prescribed in chapter 203 and the applicable rate of
19 tax prescribed in this section. ~~Each dealer subject to the tax~~
20 ~~provided in paragraph (1)(b) shall also remit the taxes~~
21 ~~imposed pursuant to chapter 203 and this section on a combined~~
22 ~~basis.~~ However, a dealer shall, in reporting each remittance
23 to the department, identify the portion thereof which consists
24 of taxes remitted pursuant to chapter 203. Return forms
25 prescribed by the department shall facilitate such reporting.

26 Section 3. Paragraph (a) of subsection (1) of section
27 202.16, Florida Statutes, is amended to read:

28 202.16 Payment.--The taxes imposed or administered
29 under this chapter and chapter 203 shall be collected from all
30 dealers of taxable communications services on the sale at
31 retail in this state of communications services taxable under

1 | this chapter and chapter 203. The full amount of the taxes on
2 | a credit sale, installment sale, or sale made on any kind of
3 | deferred payment plan is due at the moment of the transaction
4 | in the same manner as a cash sale.

5 | (1)(a) ~~Except as otherwise provided in ss.~~
6 | ~~202.12(1)(b) and 202.15,~~ The taxes collected under this
7 | chapter and chapter 203 shall be paid by the purchaser of the
8 | communications service and shall be collected from such person
9 | by the dealer of communications services.

10 | Section 4. Subsection (6) of section 202.17, Florida
11 | Statutes, is amended to read:

12 | 202.17 Registration.--

13 | (6) In addition to the certificate of registration,
14 | the department shall provide to each newly registered dealer
15 | an initial resale certificate that is valid for the remainder
16 | of the period of issuance. The department shall provide to
17 | each active dealer, ~~except persons registered pursuant to s.~~
18 | ~~202.15,~~ an annual resale certificate. As used in this section,
19 | the term "active dealer" means a person who is registered with
20 | the department and who is required to file a return at least
21 | once during each applicable reporting period.

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

24 | 202.18 Allocation and disposition of tax
25 | proceeds.--The proceeds of the communications services taxes
26 | remitted under this chapter shall be treated as follows:

27 | (1) The proceeds of the taxes remitted under s.
28 | 202.12(1)(a) ~~and (b)~~ shall be divided as follows:

29 | (a) The portion of such proceeds which constitutes
30 | gross receipts taxes, imposed at the rate prescribed in
31 |

1 chapter 203, shall be deposited as provided by law and in
2 accordance with s. 9, Art. XII of the State Constitution.

3 (b) The remaining portion shall be distributed
4 according to s. 212.20(6).

5 (2) The proceeds of the taxes remitted under s.
6 202.12(1)(b)~~(c)~~ shall be divided as follows:

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

11 (b) Sixty-three percent of the remainder shall be
12 allocated to the state and distributed pursuant to s.
13 212.20(6), except that the proceeds allocated pursuant to s.
14 212.20(6)(d)3. shall be prorated to the participating counties
15 in the same proportion as that month's collection of the taxes
16 and fees imposed pursuant to chapter 212 and paragraph (1)(b).

17 (c)1. During each calendar year, the remaining portion
18 of such proceeds shall be transferred to the Local Government
19 Half-cent Sales Tax Clearing Trust Fund and shall be allocated
20 in the same proportion as the allocation of total receipts of
21 the half-cent sales tax under s. 218.61 and the emergency
22 distribution under s. 218.65 in the prior state fiscal year.

23 2. The proportion of the proceeds allocated based on
24 the emergency distribution under s. 218.65 shall be
25 distributed pursuant to s. 218.65.

26 3. In each calendar year, the proportion of the
27 proceeds allocated based on the half-cent sales tax under s.
28 218.61 shall be allocated to each county in the same
29 proportion as the county's percentage of total sales tax
30 allocation for the prior state fiscal year and distributed
31 pursuant to s. 218.62.

1 4. The department shall distribute the appropriate
2 amount to each municipality and county each month at the same
3 time that local communications services taxes are distributed
4 pursuant to subsection (3).

5 Section 6. Subsections (8) through (12) of section
6 202.19, Florida Statutes, are renumbered as subsections (7)
7 through (11), respectively, and present subsection (7) of that
8 section is amended to read:

9 202.19 Authorization to impose local communications
10 services tax.--

11 ~~(7) Any tax imposed by a municipality, school board,~~
12 ~~or county under this section also applies to the actual cost~~
13 ~~of operating a substitute communications system, to be paid in~~
14 ~~accordance with s. 202.15. This subsection does not apply to~~
15 ~~the use by any provider of its own communications system to~~
16 ~~conduct a business of providing communications services or to~~
17 ~~the use of any communications system operated by a county, a~~
18 ~~municipality, the state, or any political subdivision of the~~
19 ~~state.~~

20 Section 7. Paragraph (a) of subsection (1) of section
21 203.01, Florida Statutes, is amended to read:

22 203.01 Tax on gross receipts for utility and
23 communications services.--

24 (1)(a)1. Every person that receives payment for any
25 utility service shall report by the last day of each month to
26 the Department of Revenue, under oath of the secretary or some
27 other officer of such person, the total amount of gross
28 receipts derived from business done within this state, or
29 between points within this state, for the preceding month and,
30 at the same time, shall pay into the State Treasury an amount
31 equal to a percentage of such gross receipts at the rate set

1 | forth in paragraph (b). Such collections shall be certified by
2 | the Chief Financial Officer upon the request of the State
3 | Board of Education.

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

16 | Section 8. Section 624.105, Florida Statutes, is
17 | amended to read:

18 | 624.105 Waiver of customer liability.--Any regulated
19 | company as defined in s. 350.111, any electric utility as
20 | defined in s. 366.02(2), any utility as defined in s.
21 | 367.021(12) or s. 367.022(2) and (7), and any provider of
22 | communications services as defined in s. 202.11(2)(3) may
23 | charge for and include an optional waiver of liability
24 | provision in their customer contracts under which the entity
25 | agrees to waive all or a portion of the customer's liability
26 | for service from the entity for a defined period in the event
27 | of the customer's call to active military service, death,
28 | disability, involuntary unemployment, qualification for family
29 | leave, or similar qualifying event or condition. Such
30 | provisions may not be effective in the customer's contract
31 | with the entity unless affirmatively elected by the customer.

1 No such provision shall constitute insurance so long as the
2 provision is a contract between the entity and its customer.

3 Section 9. The retroactive application of the
4 provisions of this act are remedial in nature and shall not be
5 construed to create a right to a refund or to require a refund
6 by any governmental entity of any tax, penalty, or interest
7 remitted to the Department of Revenue on substitute
8 communications systems prior to the effective date of this
9 act.

10 Section 10. Section 202.15, Florida Statutes, is
11 repealed.

12 Section 11. This act shall take effect upon becoming a
13 law and shall apply retroactively to October 1, 2001.

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